



Civil Society Access to International Oversight Bodies

Inter-American Commission on Human Rights



International Justice Resource Center

*Civil Society Access to International Oversight Bodies:
Inter-American Commission on Human Rights*



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EXECUTIVE SUMMARY

English

This report examines civil society engagement with the Inter-American Commission on Human Rights (IACHR), a principal autonomous organ of the Organization of American States (OAS) charged with addressing human rights conditions and human rights violations in the 35 OAS Member States. The focus is on factors that impact civil society participation in IACHR activities, including rules and practices, as well as the logistical and strategic considerations on the part of civil society. Further, the report analyzes whether these factors hinder or facilitate engagement with the IACHR. The discussion concentrates on the IACHR's sessions and on communication between civil society and the IACHR.

Over the years, the IACHR has proven effective in: addressing violence, corruption, censorship, unfair trials, the refugee crises, and many other human rights concerns in the Americas; ensuring the progressive development of human rights standards; leading efforts to promote victims' rights, and to protect democracy and the rule of law; and, importantly, providing a unique and neutral forum to hold governments accountable for their role in human rights violations. For many, it serves as a body of last resort to seek justice and accountability for human rights violations. Civil society's ability to participate in the IACHR's work benefits the IACHR's efforts in advancing its mandate, and also benefits victims of human rights abuses, human rights defenders, and the people living in the Americas. Civil society organizations provide information, insight, experience, and assistance that the IACHR and its Executive Secretariat could not otherwise access.

The IACHR provides a robust and dynamic forum for civil society to advance the protection of human rights in the region. Civil society members enjoy multiple opportunities for engagement with the IACHR, and the IACHR actively pursues efforts to strengthen its relationship with civil society. Unlike other regional human rights systems, organizations engaging with the IACHR are treated on an equal footing to States and are equal participants in the processes before the IACHR. Additionally, it is not uncommon for civil society, States, and the IACHR to engage in productive collaborations as a means of strengthening the Commission and its efficacy in promoting and protecting human rights in the region. However, the IACHR's resource constraints—due in part to limited resources as a result of insufficient State funding, funding cuts, and funding earmarked for specific activities—hinder the IACHR's capacity to maintain a dynamic relationship with civil and strengthen opportunities for civil society engagement.

Advocacy and engagement with the Commission—including through the IACHR's public sessions, consideration of individual complaints, creation of standards and guidance for OAS Member States, and monitoring of States' compliance with their human rights obligations—can be important tools for improving human rights protections in policy and practice. Accordingly, the means of civil society engagement with the IACHR, the limitations or restrictions on that engagement, and the barriers to participation, impact the IACHR's relevance and ability to protect and promote human rights in the Americas.

The IACHR holds at least two regular periods of sessions and as many special periods of sessions as it deems necessary during the year. It holds sessions at its headquarters in Washington, D.C. (United States) or in other Member States when they agree or invite the IACHR to do so. During its periods of sessions, the Commission generally holds (1) public hearings on thematic areas of concern, individual complaints (“petitions”), and precautionary measures; (2) hosts private meetings between parties negotiating a friendly settlement, or to follow-up on precautionary measures or cases that are at the compliance stage; (3) conducts internal deliberations on specific cases or petitions; (4) approves thematic initiatives and reports; (5) plans on-site and working visits; (6) engages in promotional events; and (7) meets with civil society organizations.

IACHR sessions provide unique opportunities to human rights defenders and other members of civil society. When they satisfy the requirements, civil society members can participate in hearings, meetings, and events organized by the IACHR, potentially conveying their message to various stakeholders and audiences throughout the region. Informally, periods of sessions present advocacy avenues, such as side events, interactions with government representatives, and media coverage. Importantly, gathering in person or coordinating to participate in IACHR sessions provides an opportunity for civil society members from across the Americas to come together, share information, strengthen their collaboration, and advance their shared interests.

Good Practices

The IACHR exemplifies some good practices that reinforce the role and value of civil society in the work of the Inter-American Human Rights System. For example, the IACHR: allows any non-governmental organization (NGO), individual, advocate, or member of the press to attend sessions without prior registration; authorizes any organization or individual to request a hearing, on any human rights topic (subject to geographical limitations that may apply to specific periods of sessions); holds hearings that are public in nature; takes steps to address reprisals against human rights defenders who engage with the Commission through the Special Rapporteurship on Freedom of Expression; provides simultaneous interpretation in English and Spanish and, when a hearing concerns a non-Spanish or English-speaking State, in a third language; live streams all of the hearings on the IACHR YouTube channel and makes recordings available after the hearing; sets aside time to meet with civil society collectively about access to the IACHR and its activities; and, collaborates with civil society through participation in panels, consultations, and other events.

Overview of Barriers to Participation

Notwithstanding these good practices, civil society faces obstacles to engagement as a result of the policies and practices of the OAS, IACHR, States, and—at times—civil society itself. To clearly identify and contextualize some of the obstacles to civil society participation before the IACHR, IJRC interviewed civil society members from organizations based in Canada, Colombia, Cuba, Dominican Republic, Ecuador, Mexico, Peru, and the United States. While none of these organizations are based in Central America, the work of several of the participants’ organizations has a regional scope covering Central American countries. This report draws on these interviews, survey responses, desk research, and in-person observation carried out between March 2018 and December 2018, including at the IACHR’s 167th, 168th,

and 170th Periods of Sessions, which took place in Colombia, the Dominican Republic, and the United States, respectively.

While the IACHR imposes few restrictions on participation, civil society members nonetheless encounter numerous formal and informal challenges to attending and participating in IACHR sessions. For the purposes of this report, formal barriers are those prerequisites for attendance or engagement with the IACHR that are established by law or in the Commission's rules or policies. Informal barriers are those unwritten policies and practices or external considerations that impact civil society's ability to engage with the IACHR. Participants recognize that many of these barriers can be directly attributed the fact that the IACHR works with limited resources,¹ but nevertheless see opportunities to improve practices that obstruct engagement.

Notable formal barriers to engagement include deadlines, official working languages, and the requirement that any NGO presenting a petition be legally registered in an OAS Member State. The IACHR's organization of its hearing and meeting schedules—along with its decisions regarding which requests to grant—also formally constrain the number, location, and timing of such opportunities. Civil society members must generally participate in-person (rather than virtually) in many IACHR activities, including hearings. States may also impose travel restrictions or specific requirements on visas that have a bearing on civil society participation.

The common informal barriers include a lack of transparency and access to information on processes and practices, including with regard to the timing and location of periods of sessions and concerning the IACHR's decisions on hearing and meeting requests. Other informal barriers include safety and privacy concerns, particularly related to the public nature of sessions and the IACHR's photography and video recording practices, and inadequate accommodations for persons with disabilities. More generally, the costs associated with attending and traveling to the sessions can be an obstacle to participation. States' behavior can foreclose or limit civil society engagement, including by attaching conditions to its funding for the IACHR, and failing to attend or meaningfully respond in hearings.

Access to Information

A primary obstacle that civil society faces in engaging with the Inter-American Commission both at its sessions and outside its sessions is a lack of transparency and access to accurate and complete information. For instance, the IACHR website does not consistently include some basic information, such as the structure of the Executive Secretariat or relevant staff contact details, and sometimes publishes inconsistent information regarding deadlines and other hearing details. Often, documents such as case decisions and press releases are initially available only in Spanish, and although they are often translated to English later, they are rarely made available in French and Portuguese. In terms of transparency, the IACHR does not share its process or criteria for granting or denying hearing and meeting requests, does

¹ After it survived a potentially devastating financial crisis in 2016, the IACHR noted that “severe structural issues of a deficient funding” would continue to plague the Commission. See IACHR, Press Release, IACHR Overcomes its Severe Financial Crisis of 2016 and Thanks Countries and Donors Who Made It Possible, Sept. 30, 2016, https://www.oas.org/en/iachr/media_center/PReleases/2016/145.asp.

not have a process in place for informing individuals or organizations whose hearing requests have been denied. It shares no information publicly on requesting bi-lateral meetings with IACHR members. Lack of transparency and complete information has an impact on civil society's ability to plan advocacy strategies, make decisions on what topics to raise before the Commission during a particular period of sessions, and make decisions regarding what IACHR processes should be pursued.

Costs of In-Person Attendance

Generally, civil society members must attend in person in order to participate in the IACHR's activities during a session. While the IACHR live streams its sessions and, at times, allows remote participation and video conferencing, there are no clear or established methods for requesting virtual participation. Moreover, it is necessary to be physically present at a session to fully engage with the Commission, for example to strike up conversations with the IACHR members or Executive Secretariat staff or to participate in civil society meetings. Coupled with related logistical costs, such as obtaining a visa, and the lack of sufficient notice between a hearing request approval and a hearing, the cost and distance of travel can significantly hinder attendance, particularly for smaller organizations.

In the past few years, the Commission has been holding sessions outside of its headquarters in Washington, D.C. on a more regular basis. Participants indicated that they consider whether or not a session is being held outside of headquarters when weighing the costs of attending. While sessions outside of headquarters provides an opportunity for new voices to be heard and for the IACHR to organize promotional activities with local civil society, participants in this study noted that holding sessions elsewhere can increase the costs related to visas and travel. Additionally, participants were mindful of the particular opportunities for advocacy and networking when sessions are held at headquarters, providing greater access to IACHR staff, State representatives (including at missions to the OAS), funders, and civil society partners. Importantly, when a period of sessions is held outside of Washington, D.C., public hearings usually exclude the situation in the host country, meaning there will be no hearings or working meetings related to that country. While the IACHR will organize an open meeting with civil society, including local civil society, the level of engagement with Commissioners and IACHR staff is limited during these meetings due, in part, to limited publicity and advanced notice, and time constraints. Thus, the default exclusion of the host-country situation has the effect of significantly reducing the opportunity for local civil society members to engage directly with the IACHR.

Civil society organizations that regularly engage with the IACHR have established methods of sharing information related to the Commission's activities. By attending the sessions, these groups can advance this cooperation, and have worked together to gain dedicated time for discussing related issues directly with the IACHR and to encourage the IACHR to adopt specific improvements. However, smaller and newer organizations' inability to afford to attend IACHR sessions widens the information and experience gap, increasing the obstacles they face in engaging with the Commission.

Reliance on Executive Secretariat Contacts

Some civil society members indicated that they rely on their personal contacts with IACHR personnel to obtain information and guidance on how, and with whom, to follow up on requests or advocacy before the IACHR. Additionally, civil society members who participated in this study indicated that participants

with connections at the Commission often know what the IACHR plans to prioritize during a period of sessions, based on their conversations with IACHR personnel with whom they have a personal relationship.

A handful of organizations have established close relationships with individual commissioners and IACHR staff members, presenting both opportunities and challenges. Collaboration with civil society groups helps the IACHR produce outputs that are more informed, representative of diverse perspectives, and useful to human rights accountability, and to more widely disseminate and raise awareness of human rights protections. However, these partnerships also highlight the ways in which the IACHR's resource constraints can result in comparatively less access and fewer opportunities for input among organizations that lack connections at the Executive Secretariat. This can be especially true for organizations whose work is more localized (as opposed to regional or international) and that do not have a presence in Washington, D.C.

The importance placed on personal relationships, even if it is merely perceived, perpetuates the relative exclusion of lesser known organizations and of organizations that are smaller, newer, community-based, or that do not have the capacity to frequently attend periods of sessions and form such relationships.

Hearings held *Ex Officio*

Ex officio hearings are hearings that the IACHR holds at its own initiative. Unlike regular public hearings, which are proposed by civil society or States, when a hearing is convened *ex officio*, the Commission determines the topic and scope of the hearing, and selects the civil society organizations that participate. *Ex officio* hearings allow the Commission to respond quickly to issues as they develop and hold public hearings on those issues, and to receive relevant information from civil society and other stakeholders. Additionally, they can allow both civil society and the IACHR to raise awareness and increase public pressure for accountability on topics that might otherwise not receive attention.

However, some participants in this study noted with concern that *ex officio* hearings allow the Commission to set the agenda, rather than civil society, which hinders their ability to participate and advocate before the Commission. Notably, participants were critical of the general scope of *ex officio* hearings, the lack of guidelines that the Commission uses to determine who it will invite to participate following its public invitation to civil society to submit expressions of interest to participate, the timing and notice given to civil society members that are invited to participate, and perceived elitism or preference in selecting organizations to participate.

In view of the lack of publicly-available guidelines on the IACHR's hearing selection process, *ex officio* hearings, especially, appear to privilege civil society organizations that regularly engage with the Commission or those that are most likely to both become aware of an *ex officio* hearing and to be able to participate in person on limited notice. As previously noted, these tend to be larger and well-funded organizations. Consequently, convening *ex officio* hearings at the expense of hearings requested by civil society may limit the space and opportunity for engagement among less well-known organizations, organizations that do not have the knowledge or resources to engage with the Commission, or organizations that do not engage with it frequently.

Recommendations

The final section of this report lists the good practices that facilitate civil society engagement with the IACHR and the practices that appear to obstruct engagement, and also makes recommendations for improvements by both the IACHR and civil society. This study highlights barriers to effective engagement with the goal of facilitating civil society's efforts to develop recommendations aimed at increasing engagement before the Commission. In this regard, the information in this report should be read in conjunction with the findings in IJRC's report on civil society access to the African Commission on Human and Peoples' Rights and subsequent reports published in this series.²

Based on the information contained in this report, the IACHR could improve civil society access by:

Protecting Stakeholders

- Taking steps to address in a timely and efficient manner reprisals against human rights defenders who engage with the Commission;
- Implementing a security protocol to address human rights defenders' privacy concerns related to session and event attendance;
- Establishing clear procedures for instances when other actors interrupt or interfere with hearings, meetings, dialogues, or other events organized by the Commission;
- Taking and using participants' photographs only when consent is expressly given, as could be demonstrated through a registration form or a designated color on participants' lanyards;
- Making the IACHR website secure, and providing an encrypted, confidential method for communication with the IACHR Executive Secretariat, such as via Signal;

Improving Transparency and Access to Information

- Adding organizational information to the IACHR website, including on the structure of the IACHR Executive Secretariat and the methods for communicating with the IACHR Executive Secretariat;
- Clarifying and making transparent the means for communicating with IACHR Commissioners and IACHR Special Rapporteurs;
- Providing advance online notice and an accessible sign-up procedure for the IACHR plenary meetings with civil society during sessions;
- Restoring the online availability of video recordings of IACHR hearings held prior to 2013;
- Making all website content, including press releases, announcements, reports, and documents, available in the official languages of the OAS;
- Establishing a process for notifying organizations or individuals whose hearing requests or meeting requests are not granted, and implementing it consistently;
- Providing a reason for why a hearing or meeting is denied or indicating whether a hearing request may be successful if submitted for a subsequent session;
- Establishing guidelines and clear methods for requesting virtual participation;

² IJRC, Civil Society Access to International Human Rights Spaces, <https://ijrcenter.org/civil-society-access-to-international-human-rights-spaces/>.

- Adopting and disseminating a protocol for when States fail to participate in hearings or other events where their participation is expected, particularly with regard to how civil society's time for participation will be allocated or rescheduled;
- Making available additional information about the IAHR Forum so that civil society can better understand its role and how its participation will contribute to it;
- Publishing summaries of the outcomes of hearings that include any recommendations or follow-up indicated by the Commissioners;
- Publishing on its website the written submissions made by civil society and States in the context of hearings;
- Maintaining IACHR social media accounts (in English and Spanish, at minimum) and sharing session information and other news through those mediums;
- Developing a portfolio of media contacts and sharing information with outlets and reporters regarding hearings, reports, visits, and other activities;

Enhancing Timeliness of Communications

- Consistently communicating the dates of upcoming periods of sessions, hearings, consultations, country visits, and other activities well in advance;
- Providing timely and accessible public notice of each session's location;
- Announcing *ex officio* hearings when the window for hearing requests opens;
- Publishing the schedule of hearings and notice of *ex officio* hearings further in advance of session dates;
- Communicating decisions to grant or deny hearing and meeting requests further in advance of the session dates;

Improving Equal Access

- Inquiring about needed accommodations for persons with disabilities attending a session and preparing those accommodations ahead of sessions;
- Offering materials in large print, audio, and braille format;
- Making available video recordings of hearings in the four official languages of the OAS;
- Publishing a transcript of hearings in the four official languages of the OAS;
- Making gender neutral restrooms available;
- Guiding Executive Secretariat staff in ensuring that they are equally responsive to communications from lesser known or newcomer organizations as they are to more familiar organizations; and,
- Opening a dialogue with new or infrequent users of the Inter-American System, or taking other specific efforts to increase communication with the organizations most affected by barriers to participation before the IACHR.

Spanish

Este informe examina la participación de la sociedad civil ante la Comisión Interamericana de Derechos Humanos (CIDH), un órgano principal y autónomo de la Organización de los Estados Americanos (OEA) cuyo mandato incluye la promoción y la protección de los derechos humanos en los 35 Estados miembros

de la OEA. El informe identifica factores que afectan la participación de la sociedad civil en las actividades de la CIDH, incluidas las normas y prácticas así como las consideraciones logísticas y estratégicas por parte de la sociedad civil. Además, el informe analiza si estos factores dificultan o facilitan la participación ante la CIDH. Los períodos de sesiones de la CIDH, junto con la comunicación entre la sociedad civil y la CIDH o su personal, son el enfoque principal.

A lo largo de los años, la CIDH ha demostrado su eficacia en: abordar temas como la violencia, la corrupción, la censura, el debido proceso, las crisis de refugiados, y varias otras cuestiones en materia de derechos humanos en las Américas; garantizar el desarrollo progresivo de las normas de derechos humanos; llevar adelante esfuerzos para promover los derechos de las víctimas, y para proteger la democracia y el estado de derecho; y, sobre todo, proporcionar un foro único y neutral para responsabilizar a los Estados por su papel en las violaciones de los derechos humanos. Para muchas personas, la CIDH sirve como un mecanismo de último recurso para pedir justicia y rendición de cuentas por las violaciones de los derechos humanos. La capacidad de la sociedad civil para participar en el trabajo de la CIDH beneficia los esfuerzos realizados por este organismo para cumplir con su mandato y también beneficia a las víctimas de abusos a los derechos humanos, a las y los defensores de derechos humanos, y a las personas que viven en las Américas. Las organizaciones de la sociedad civil también proporcionan información, perspectiva, experiencia y asistencia a la que la CIDH y su Secretaría Ejecutiva no tendrían acceso de otra manera.

La CIDH brinda un foro amplio y dinámico que permite a la sociedad civil promover la protección de los derechos humanos en la región. Los miembros de la sociedad civil disfrutan de múltiples oportunidades para participar en las actividades de la CIDH, y la CIDH busca oportunidades para fortalecer su relación con la sociedad civil. A diferencia de otros sistemas regionales e internacionales de derechos humanos, ante la CIDH la sociedad civil recibe el mismo trato que los Estados y participa en pie de igualdad en los distintos procesos. Además, en ocasiones, la sociedad civil, los Estados, y la CIDH participan en colaboraciones productivas como un medio de fortalecer la eficacia de la Comisión en la promoción y la protección de los derechos humanos en la región. Sin embargo, dada la limitación de los recursos de la CIDH—una situación creada en parte por contribuciones inadecuadas por parte de los Estados miembros, recortes de fondos, y contribuciones destinadas para actividades específicas—este organismo tiene una capacidad reducida para mantener una relación dinámica con la sociedad civil y fortalecer las oportunidades de su participación.

Las oportunidades que representa la CIDH—a través de sus audiencias, la consideración de peticiones individuales, la creación de normas y doctrina que guían a los Estados miembros de la OEA, y el monitoreo del cumplimiento de los Estados con sus obligaciones de derechos humanos—pueden ser herramientas importantes para poder lograr mejores prácticas y políticas de protección de los derechos humanos. En consecuencia, los medios de participación de la sociedad civil ante la CIDH, las limitaciones o restricciones a esa participación, y los desafíos que se experimentan, afectan la eficacia de la CIDH en la protección y promoción de los derechos humanos en las Américas.

La CIDH realiza al menos dos períodos de sesiones ordinarios al año, además de otros períodos extraordinarios de sesiones que considere necesarios. Celebra períodos de sesiones en su sede en Washington, D.C. (Estados Unidos) o en otros Estados miembros cuando están de acuerdo o invitan a la

CIDH a hacerlo. Durante sus períodos de sesiones, la Comisión generalmente (1) celebra audiencias públicas sobre áreas temáticas de preocupación, sobre denuncias individuales (“peticiones”), y medidas cautelares; (2) organiza reuniones privadas entre las partes para facilitar una solución amistosa a peticiones, o para dar seguimiento a medidas cautelares o casos que se encuentran en la etapa de cumplimiento; (3) lleva a cabo deliberaciones internas sobre casos específicos; (4) aprueba iniciativas temáticas e informes; (5) planea visitas *in loco* o visitas de trabajo; (6) participa en eventos promocionales; y (7) se reúne con organizaciones de la sociedad civil.

Los períodos de sesiones brindan oportunidades únicas para las y los defensores de derechos humanos y otros miembros de la sociedad civil. Cuando satisfacen los requisitos, miembros de la sociedad civil pueden participar en audiencias, reuniones, y eventos convocados por la CIDH, con la posibilidad de comunicar su mensaje a varios públicos en toda la región además de las personas presentes. De manera informal, los períodos de sesiones presentan oportunidades para llevar a cabo actividades de promoción, como eventos paralelos, interacciones con representantes del gobierno, y cobertura mediática. Es importante destacar que asistir a un periodo de sesiones, o coordinar la participación con otros miembros de la sociedad civil, puede brindar oportunidades para compartir información, fortalecer su colaboración, y promover sus intereses comunes.

Buenas Prácticas

La CIDH ejemplifica varias buenas prácticas que refuerzan el papel y el valor de la sociedad civil en el trabajo del sistema interamericano de derechos humanos. Por ejemplo, la CIDH: permite que cualquier persona, organización no gubernamental (ONG), o miembro de la prensa asista a las sesiones sin registro previo; autoriza a cualquier organización o individuo a solicitar una audiencia, sobre cualquier tema de derechos humanos (sujeto a limitaciones geográficas que puedan aplicarse a períodos específicos de sesiones); celebra audiencias de carácter público; toma medidas para hacer frente a las represalias contra las y los defensores de derechos humanos que colaboran con la Comisión mediante la Relatoría Especial para la Libertad de Expresión; proporciona interpretación simultánea en inglés y español y, cuando celebra una audiencia sobre un Estado que no habla español o inglés, proporciona interpretación simultánea en un tercer idioma; transmite en vivo todas las audiencias en el canal de la CIDH en YouTube y hace las grabaciones disponibles en línea; celebra una reunión con la sociedad civil de manera colectiva sobre el acceso a la CIDH y sus actividades; y colabora con la sociedad civil a través de la participación en paneles, consultas, y otros eventos.

Panorama de las Barreras a la Participación

A pesar de las buenas prácticas antes referidas, la sociedad civil enfrenta numerosos desafíos para asistir a, o participar en, las sesiones de la CIDH como resultado de las políticas y prácticas de la OEA, la CIDH, los Estados y—a veces—de la propia sociedad civil. Para identificar y contextualizar claramente algunas de las barreras que enfrenta la sociedad civil para participar ante la CIDH, IJRC entrevistó a miembros de organizaciones de la sociedad civil con sede en Canadá, Colombia, Cuba, República Dominicana, Ecuador, México, Perú y Estados Unidos. Si bien ninguna de estas organizaciones tiene su sede en Centroamérica, el trabajo de varias de las organizaciones participantes tiene un alcance regional que abarca los países de Centroamérica. Este informe se basa en estas entrevistas, respuestas a encuestas, investigación

documental, y observación en persona realizada entre marzo de 2018 y diciembre de 2018, durante los períodos de sesiones 167, 168 y 170 de la CIDH, que tuvieron lugar en Colombia, República Dominicana, y Estados Unidos, respectivamente.

Si bien la CIDH impone pocas restricciones a la participación de la sociedad civil en su trabajo, los miembros de la sociedad civil aún enfrentan numerosos desafíos formales e informales para asistir y participar en las sesiones de la CIDH. Para el propósito de este informe, las barreras formales se refieren a aquellos requisitos previos que se establecen por ley o en las normas o políticas de la CIDH. Las barreras informales son aquellas políticas y prácticas no escritas, o consideraciones externas que afectan la capacidad de la sociedad civil para participar en los mecanismos de la CIDH. Las y los participantes reconocen que varias de estas barreras pueden atribuirse directamente al hecho de que la CIDH trabaja con recursos limitados.³ Sin embargo, ven oportunidades para mejorar las prácticas que obstruyen su participación ante la CIDH.

Las barreras formales impuestas por la CIDH que notablemente impactan la participación de la sociedad civil incluyen las fechas límites para la presentación de solicitudes de audiencia y otra información, así como idiomas de trabajo oficiales, y el requisito de que organizaciones de la sociedad civil sean legalmente reconocidas a nivel nacional para poder presentar peticiones, ya sea en su nombre o en nombre de las víctimas. El programa de períodos de sesiones, audiencias, y reuniones de trabajo—junto con sus decisión de otorgar o rechazar una solicitud de audiencia o de reunión—también limitan formalmente el número, la ubicación, y el momento de tales oportunidades. Los miembros de la sociedad civil generalmente deben participar en persona (y no por medios virtuales) en muchas actividades de la CIDH, incluyendo las audiencias. Por otra parte, los Estados también pueden imponer restricciones de viaje o requisitos específicos con respecto a las visas para víctimas o defensores de derechos humanos, y tales decisiones también afectan la participación de la sociedad civil.

Las barreras informales comunes son, entre otras, la falta de transparencia y el limitado acceso a información sobre los procesos y las prácticas de la CIDH, incluyendo con respecto al momento y la ubicación de los períodos de sesiones y en relación con las decisiones de la CIDH sobre solicitudes de audiencia y reuniones. Preocupaciones sobre la seguridad y privacidad, dada la naturaleza pública de las sesiones y las prácticas de grabación de video y fotografía de la CIDH, constituyen otra barrera informal, como también la falta de ajustes razonables o adecuados para personas con discapacidad. En términos más generales, los costos asociados a la asistencia a un período de sesiones pueden constituir un obstáculo a la participación de miembros de la sociedad civil. Los Estados pueden excluir o limitar la participación de la sociedad civil también, incluso mediante la imposición de condiciones a su financiación para la CIDH y la inasistencia o la falta de respuesta efectiva en las audiencias u otros procedimientos de la CIDH.

³ Después de que supero una crisis financiera potencialmente devastadora en 2016, la CIDH observó que “el grave problema estructural de un financiamiento que es deficiente” seguirá plagando la Comisión. Ver CIDH, Comunicado de Prensa, *CIDH supera la aguda crisis financiera de 2016 y agradece a países y donantes que lo hicieron posible* (30 de septiembre de 2016), <https://www.oas.org/es/cidh/prensa/Comunicados/2016/145.asp>.

Acceso a Información

Un obstáculo principal que enfrenta la sociedad civil es la falta de transparencia y de acceso a información precisa y completa proveniente de la CIDH. Por ejemplo, el sitio web de la CIDH no incluye de manera consistente información básica, tal como un organigrama de la Secretaría Ejecutiva o los datos de contacto del personal pertinente. Además, a veces se publica información inconsistente con respecto a los plazos para solicitar audiencias y reuniones de trabajo para un período de sesiones. A menudo, documentos, incluidos las decisiones sobre casos y comunicados de prensa, inicialmente solo están disponibles en español, y aunque frecuentemente se traducen al inglés después, rara vez se traducen al francés o portugués. En términos de transparencia, la CIDH no comparte públicamente el proceso o los criterios que usa para determinar si va a otorgar o denegar solicitudes de audiencia o de reunión de trabajo, y tampoco tiene un proceso establecido para informar a las personas u organizaciones cuyas solicitudes de audiencia han sido denegadas. Además, no publica información sobre cómo solicitar reuniones bilaterales con miembros de la CIDH. La falta de transparencia y el acceso limitado a información precisa y completa afectan la capacidad de la sociedad civil para planificar estrategias de incidencia, tomar decisiones sobre qué temas plantear ante la Comisión durante un período de sesiones, y tomar decisiones sobre cuáles procesos de la CIDH deben utilizar.

Asistencia en Persona

En general, los miembros de la sociedad civil deben asistir en persona si quieren participar en las actividades de la CIDH durante un periodo de sesiones. Si bien la CIDH transmite en vivo sus audiencias y, a veces, permite la participación remota y por videoconferencia, no existen métodos claros o establecidos para solicitar la participación virtual. Además, es necesario estar físicamente presente en una sesión para participar plenamente con la Comisión, por ejemplo, para poder conversar con miembros de la CIDH o de su Secretaría Ejecutiva o participar en reuniones de la sociedad civil. Junto con los costos logísticos relacionados, como obtener una visa, el aviso con poca antelación sobre la aprobación de una solicitud de audiencia, el costo y la distancia del viaje pueden dificultar significativamente la asistencia en persona, particularmente para organizaciones más pequeñas y de menos recursos.

En los últimos años, la Comisión ha celebrado sesiones fuera de su sede en Washington, D.C., de manera más regular. Las y los participantes en este estudio indicaron que toman en cuenta la ubicación de una sesión al evaluar los costos y beneficios de asistencia. Si bien las sesiones celebradas fuera de la sede posibilitan la participación de otros miembros de la sociedad civil y brindan oportunidades de sensibilizar el trabajo de la CIDH al nivel local, las y los participantes en este estudio señalaron que la celebración de sesiones en otros lugares puede aumentar los costos relacionados con visas y pasaje. Además, las y los participantes fueron conscientes de las oportunidades particulares de promoción y creación de redes cuando las sesiones se llevan a cabo en la sede, brindando un mayor acceso al personal de la CIDH, a los representantes estatales (incluidas las misiones a la OEA), a los donantes, y a otros actores ubicados en Washington. Es importante destacar que, cuando se celebra un período de sesiones fuera de Washington, la CIDH generalmente no convoca, ni concede, audiencias o reuniones de trabajo sobre temas o casos que involucran el país anfitrión. Si bien la CIDH organiza una reunión pública con la sociedad civil, la cual está

abierta a los miembros de la sociedad civil local, esta reunión representa una oportunidad limitada de intercambio con la CIDH, tanto por la falta de publicidad extendida y de notificación anticipada, así como por las limitaciones de tiempo. Por lo tanto, la exclusión de la situación en el país anfitrión tiene el efecto de reducir significativamente la oportunidad para que los miembros de la sociedad civil local participen directamente en los procesos de la CIDH.

Las organizaciones de la sociedad civil que colaboran con regularidad con la CIDH han establecido métodos para compartir información que corresponde a las actividades de la Comisión. Al asistir a las sesiones, estos grupos pueden promover esta cooperación, y han trabajado juntos para ganar tiempo dedicado para discutir temas con la CIDH y alentar a la CIDH a adoptar mejoras puntuales. Sin embargo, para las organizaciones más pequeñas y nuevas, la imposibilidad de asistir a las sesiones de la CIDH por razones de escasos recursos amplía la brecha de información y experiencia, aumentando los obstáculos que enfrentan para participar en actividades ante la Comisión.

Importancia de Contactos en la Secretaría Ejecutiva

Algunos miembros de la sociedad civil subrayaron la importancia de las relaciones y contactos con el personal de la CIDH para poder obtener información e identificar cómo, y con quién, dar seguimiento a solicitudes o actividades de incidencia ante la CIDH. Además, los miembros de la sociedad civil que participaron en este estudio indicaron que aquellos con contactos en la Comisión a veces pueden conocer con antelación las prioridades y planes de la CIDH, información que les ayuda en su propio trabajo y facilita su participación en los períodos de sesiones.

Algunas organizaciones han establecido relaciones estrechas con Comisionados individuales y miembros del personal de la CIDH, lo cual presenta oportunidades además de desafíos. La colaboración con grupos de la sociedad civil ayuda a la CIDH a producir resultados más informados, representativos de diversas perspectivas, y útiles para la rendición de cuentas en materia de derechos humanos. Además, esta colaboración le ayuda a la CIDH a difundir información y a sensibilizar a los públicos sobre su doctrina y su mandato. Sin embargo, estas relaciones muestran que la limitación de recursos de parte de la CIDH puede resultar en un acceso desigual y menos oportunidades para las organizaciones que no cuentan con contactos en la CIDH de contribuir a su labor, especialmente para las organizaciones cuyo trabajo es más local (no regional o internacional) y que no tienen presencia en Washington, D.C.

La importancia de las relaciones personales, incluso si es sólo una percepción, perpetúa la exclusión relativa de organizaciones menos conocidas o que son pequeñas, nuevas, comunitarias, o que no tienen la capacidad de asistir con frecuencia a períodos de sesiones.

Audiencias de Oficio

Las audiencias de oficio son audiencias que la CIDH convoca por iniciativa propia. A diferencia de las audiencias públicas regulares, que son propuestas por la sociedad civil o los Estados, cuando se convoca una audiencia de oficio, la Comisión determina el tema y el alcance de la audiencia y selecciona a los participantes. Las audiencias de oficio permiten a la Comisión responder a los problemas o temas a medida que se desarrollan y celebrar audiencias públicas sobre esos temas, y recibir información pertinente de parte de la sociedad civil y otros actores. Además, pueden brindar oportunidades para

sensibilizar e informar a la opinión pública para promover la responsabilidad estatal en materia de derechos humanos, sobre temas que de otra manera no recibirían mucha atención.

Sin embargo, algunos participantes en este estudio observaron con preocupación que las audiencias de oficio disminuyen el rol de la sociedad civil en la identificación de las prioridades temáticas y geográficas abordadas, lo cual dificulta la participación de la sociedad civil en las audiencias. En particular, los participantes criticaron el alcance general de las audiencias de oficio, la falta de pautas que utiliza la Comisión para determinar a quién invitará a participar después de solicitar expresiones de interés por parte de la sociedad civil, la manera y el plazo en que notifica a las y los participantes seleccionados, y el elitismo o preferencia que algunos perciben en la selección de organizaciones para participar.

En vista de la falta de pautas públicas sobre el proceso de selección de temas y participantes, las audiencias de oficio parecen privilegiar a las organizaciones de la sociedad civil que participan regularmente ante la Comisión, las que están al día de las actividades de la CIDH, y las que pueden prepararse y viajar al lugar de la sesión sin mayor aviso previo. Como se señaló anteriormente, estas organizaciones tienden a ser más grandes y estar mejor financiadas. En consecuencia, la convocación de audiencias de oficio en lugar de las audiencias solicitadas por la sociedad civil puede limitar el espacio y las oportunidades de participación para las organizaciones menos conocidas, organizaciones que no tienen el conocimiento o los recursos para participar ante la Comisión, u organizaciones que por cualquier razón no participan con frecuencia.

Recomendaciones

La sección final de este informe enumera las buenas prácticas que facilitan la participación de la sociedad civil ante la CIDH e identifica las prácticas que parecen dificultar la participación, y hace recomendaciones dirigidas tanto a la CIDH como a la sociedad civil para mejorar el acceso. Este estudio tiene el fin de apoyar el desarrollo de recomendaciones para la protección y ampliación del espacio cívico ante la Comisión. Al respecto, la información en este informe debería leerse junto con los hallazgos del informe de IJRC sobre la participación de la sociedad civil ante la Comisión Africana de Derechos Humanos y de los Pueblos y los informes en esta serie que serán publicados más adelante.⁴

Basándose en la información contenida en este informe, la CIDH podría mejorar el acceso de la sociedad civil al:

Proteger a las Personas Interesadas

- Tomar medidas oportunas y eficaces para abordar represalias contra las y los defensores de derechos humanos que participan en las actividades de la Comisión;
- Implementar un protocolo de seguridad para mitigar las preocupaciones de privacidad y seguridad de las y los defensores de derechos humanos relacionadas con la asistencia a períodos de sesiones y eventos;
- Establecer procedimientos claros para los casos en que otros actores interrumpen o interfieren en las audiencias, reuniones, diálogos u otros eventos organizados por la Comisión;

⁴ IJRC, Civil Society Access to International Human Rights Spaces, <https://ijrcenter.org/civil-society-access-to-international-human-rights-spaces/>.

- Tomar y usar las fotografías de participantes solo cuando se otorgue expresamente el consentimiento, el cual se puede demostrar a través de un formulario de registro o un color asignado en los acolladores de los participantes;
- Hacer que el sitio web de la CIDH sea seguro y proporcionar un método encriptado y confidencial para la comunicación con la Secretaría Ejecutiva de la CIDH, como por ejemplo a través de la aplicación Signal;

Mejorar la Transparencia y el Acceso a la Información

- Agregar información de índole general e institucional al sitio web de la CIDH, incluyendo la estructura de la Secretaría Ejecutiva y los métodos para comunicarse con el personal de la Secretaría Ejecutiva;
- Aclarar y hacer transparentes los medios para comunicarse con las y los Comisionados y Relatores Especiales de la CIDH;
- Avisar con anticipación sobre las reuniones plenarias de la CIDH con la sociedad civil durante los períodos de sesiones, hacer el preaviso disponible en línea, y establecer un procedimiento de inscripción accesible;
- Restaurar la disponibilidad en línea de grabaciones de video de las audiencias de la CIDH realizadas antes de 2013;
- Hacer disponible todo el contenido del sitio web, incluyendo comunicados de prensa, anuncios, informes y documentos, en los idiomas oficiales de la OEA;
- Establecer un proceso para notificar a las organizaciones o individuos cuyas solicitudes de audiencia o de reunión no son otorgadas, e implementarlo de manera coherente;
- Proporcionar una razón por la cual se niega una audiencia o reunión, o indicar si una solicitud de audiencia podría tener éxito si se presenta para una sesión posterior;
- Establecer pautas y métodos claros para solicitar la participación virtual en una audiencia o reunión;
- Adoptar y difundir un protocolo para situaciones en las que un Estado no participa en una audiencia u otro evento donde se espera su participación, en particular con respecto a cómo se asignará o reprogramará el tiempo de participación de la sociedad civil;
- Poner a disposición información adicional sobre el Foro del SIDH para que la sociedad civil pueda entender mejor su papel y cómo su participación contribuirá al evento;
- Publicar resúmenes de las audiencias que incluyan seguimiento o recomendaciones indicadas por las y los Comisionados;
- Publicar en su sitio web las presentaciones escritas de la sociedad civil y de los Estados en el contexto de las audiencias;
- Mantener las cuentas de redes sociales de la CIDH (en inglés y español, como mínimo) y compartir información sobre períodos de sesiones y otras noticias a través de esos medios;
- Desarrollar una cartera de contactos de medios de comunicación, y compartir información con medios y reporteros sobre audiencias, informes, visitas, y otras actividades;

Mejorar la Puntualidad de las Comunicaciones

- Comunicar de manera consistente y con suficiente antelación las fechas de los próximos períodos de sesiones, audiencias, consultas, visitas a países, y otras actividades;
- Anunciar audiencias de oficio cuando se abra el plazo para solicitar audiencias y reuniones de trabajo;
- Publicar el calendario de audiencias y el aviso de audiencias de oficio con más antelación a las fechas del periodo de sesiones;

- Comunicar las decisiones otorgando o negando solicitudes de audiencia y reuniones de trabajo con más antelación a las fechas del periodo de sesiones;

Mejorar la Igualdad de Acceso

- Preguntar sobre las medidas requeridas para acomodar las necesidades de las personas con discapacidades que asisten a un periodo de sesiones e implementar esas medidas con antelación al periodo de sesiones;
- Ofrecer materiales en letra grande, audio, y formato braille;
- Hacer disponibles las grabaciones de video de las audiencias en los cuatro idiomas oficiales de la OEA;
- Publicar transcripciones de las audiencias en los cuatro idiomas oficiales de la OEA;
- Hacer que los baños sean neutrales en cuanto al género;
- Guiar al personal de la Secretaría Ejecutiva para garantizar que respondan por igual a las comunicaciones de las organizaciones menos conocidas o nuevas, así como a las organizaciones con mayor conocimiento del sistema interamericano y más establecidas; y,
- Iniciar un diálogo con usuarios nuevos o infrecuentes del sistema interamericano, o realizar otros esfuerzos específicos para mejorar la comunicación con las organizaciones más afectadas por las barreras u obstáculos a la participación ante la CIDH.

ABOUT THIS REPORT

This report is the second in a series examining the rules, policies, and practices that shape civil society organizations' engagement with supranational bodies charged with developing or implementing human rights standards. The goal of this series is to clearly identify and contextualize the ways in which civil society's participation is hindered or helped by both formal and informal requirements, practical considerations, and the nature of the relationships between the various stakeholders. This edition analyzes the Inter-American Commission on Human Rights, a principal autonomous organ of the Organization of American States (OAS) charged with addressing human rights conditions and human rights violations in the 35 OAS Member States.

This report draws on desk research, interviews with civil society members, survey responses, and in-person observation carried out between March 2018 and December 2018, including at the IACHR's 167th, 168th, and 170th Periods of Sessions, which took place in Colombia, the Dominican Republic, and the United States, respectively. The desk research involved consulting the resources on the Inter-American Commission's website, including its pages on complaints, decisions, hearings, reports, periods of sessions, and activities and initiatives; the Commission's press releases and Rules of Procedure; relevant databases of non-governmental organizations (NGOs), among other resources; and the OAS online resources, including its information on civil society status with the OAS and ratification tables, among other relevant sources. IJRC interviewed 11 civil society members and received responses to a survey on engagement with the Commission from 13 civil society members. Seven participants in this study both participated in an interview and responded to the survey. Therefore, IJRC heard directly from 19 civil society members in researching this report; these individuals represent 17 civil society organizations working to advance

human rights. IJRC also observed the processes, conduct, and conversations at the 167th, 168th, and 170th Periods of Sessions.

The work of participants in this study spans several thematic topics and most of the Americas. Participants work for organizations focused on access to justice; children's rights; due process; environmental rights; extrajudicial killings and the right to life; the right to housing; human rights defenders; Indigenous peoples' rights; the rights of refugees and migrants; the right to nationality; the rights of older persons; the rights of persons with disabilities; prisoners' rights; the right to privacy; the right to education; the rights to freedom of expression, freedom of assembly, and freedom of association; sexual orientation and gender identity and human rights; prohibition of torture and inhumane treatment; transitional justice; women's rights; economic, social, and cultural rights; and business and human rights.

In order to encourage frank and open communication from participants, and in view of this report's goal of identifying barriers and opportunities that may be relevant to all civil society members, participating individuals and organizations are not identified.

The series of reports that this study belongs to was borne out of a request from a civil society organization that has faced specific barriers when engaging with supranational oversight bodies. That organization asked IJRC to produce a comparative study across human rights systems and supranational bodies to identify challenges experienced by civil society operating in different fora, to share best practices, and to provide a basis for devising recommended changes in policy or practice to enable civil society's efficient and effective participation at the international level. IJRC published the first report in this series in October 2018 on the African Commission on Human and Peoples' Rights and the Forum on the Participation of NGOs in the Ordinary Sessions of the African Commission on Human and Peoples' Rights, and plans to publish subsequent reports on other human rights bodies.⁵

Eliminating barriers to engagement with supranational bodies will support those bodies' ability to thoroughly and accurately carry out their human rights mandates. Regional and universal oversight bodies benefit from civil society's unique insights, knowledge, recommendations, and ability to help implement their recommendations and decisions. In their work of identifying human rights violations and helping States adhere to their international obligations, these bodies depend on civil society to a significant degree, not least because their own resources tend to be highly limited.

Supranational bodies provide spaces and opportunities that are important to civil society's work to advance human rights. Engagement with these bodies helps civil society: identify and clarify States' human rights obligations, obtain independent assessment of governments' human rights records, secure justice and accountability for victims of abuses, increase the visibility or awareness of rights violations, pressure States to implement reforms, secure protection for themselves or others in situations of risk, and shape the local or national conversation around fundamental rights issues.

However, in addition to the difficulties and risks they face in their local or national contexts, civil society members often face various challenges to making their voices heard by supranational bodies. These challenges include logistical considerations, such as the cost and distance of travel; the timing and nature

⁵ IJRC, *Civil Society Access to International Oversight Bodies: African Commission on Human and Peoples' Rights* (2018), available at <https://ijrcenter.org/wp-content/uploads/2018/10/Civil-Society-Access-ACHPR-2018.pdf>.

of the information shared by supranational bodies; institutional preferences; a lack of independence on the part of the supranational body; security concerns; and, inadequate physical or linguistic accessibility. This report examines these barriers, as well as the rules and practices that facilitate engagement, with a view to expanding the civic space at the international level.

ENGAGEMENT WITH THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

IACHR's Mandate and Opportunities for Civil Society Engagement

The Inter-American Commission on Human Rights (IACHR) is one of the main independent organs of the Organization of American States (OAS), an intergovernmental organization, and is headquartered in Washington, D.C.⁶ The Commission is responsible for promoting “the observance and protection of human rights” in all 35 OAS Member States, and serves as an advisory body of the OAS on human rights issues.⁷ The Commission consists of seven human rights experts, the Commissioners, who are elected by the OAS General Assembly and serve in their individual capacity for a four-year term that may be renewed once.⁸ The Commissioners, in turn, select two experts to assist the IACHR as the Special Rapporteur for Freedom of Expression and the Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (ESCER).⁹ Commissioners are not expected to work full-time for the IACHR, except when they convene for IACHR sessions, and are generally engaged in other employment, often as practicing lawyers or law professors.

The IACHR Executive Secretariat¹⁰ is led by an Executive Secretary and at least one Assistant Executive Secretary, and consists of professional and administrative staff members who help the Commissioners carry out their work.¹¹ While the Executive Secretary is formally appointed by the OAS Secretary General,

⁶ IJRC, Inter-American Human Rights System, <https://ijrcenter.org/regional/inter-american-system/>.

⁷ Charter of the Organization of American States (adopted 30 April 1948, entered into force 31 December 1951), OASTS Nos. 1-C and 61, art. 106 [hereinafter *OAS Charter*], available at http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp.

⁸ IACHR, Composition, <http://www.oas.org/en/iachr/mandate/composition.asp>.

⁹ See IACHR, Press Release, IACHR Chooses Soledad García Muñoz as Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (ESCER), 5 July 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/090.asp; see also IACHR, Mandate of the Office of the Special Rapporteur for Freedom of Expression, <http://www.oas.org/en/iachr/expression/mandate/>.

¹⁰ See American Convention on Human Rights “Pact of San José, Costa Rica” (adopted 22 November 1969, entered into force 18 July 1978), 1144 UNTS 123, OASTS No. 36, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25, art. 40 [hereinafter *American Convention*], available at http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm.

¹¹ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights (2013), [hereinafter *Rules of Procedure*], available at <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>; see generally, IACHR, Staff, <http://www.oas.org/en/iachr/mandate/staff.asp>. In May 2018, former Assistant Executive Secretary Elizabeth Abi-Mershed resigned from her post and the IACHR called for a public and open competition for the post to select a candidate. See IACHR, Press Release, IACHR Recognizes the Work Carried Out by Elizabeth Abi-Mershed for 26

the IACHR is responsible for identifying and selecting the Executive Secretary.¹² The Executive Secretary is tasked with coordinating the operation of the Executive Secretariat in its work of preparing draft reports, resolutions, and studies; advising the Commission; and processing decisions and communications, among other duties.¹³ Unlike the Commissioners and Special Rapporteurs, the Executive Secretariat is a permanent body whose staff members continue in their positions through changes in the Commission's composition.

The Commission promotes and protects human rights in OAS Member States through monitoring States' compliance with their human rights obligations, including in priority thematic areas; traveling to countries in the region for on-site observational visits or working visits; publishing reports on topics and countries of concern; deciding individual complaints, called "petitions," regarding alleged human rights violations in the Americas; and resolving requests for "precautionary measures," or emergency protection.¹⁴ In furtherance of its mandate, the IACHR holds at least two ordinary sessions per year, and as many extraordinary sessions as it deems necessary.¹⁵ The default location of sessions is at the Commission's headquarters in Washington, D.C.; however, the location is subject to change with a vote of an absolute majority of its members and with the consent or invitation of the host State.¹⁶ While the IACHR has begun announcing the location of some of its sessions well in advance,¹⁷ the location of other sessions will often be announced during or at the conclusion of a preceding session—three to four months in advance.¹⁸ Since June 2016, the Commission has been holding at least half of its periods of sessions per year outside of headquarters.¹⁹

During its sessions, the Commission generally holds public hearings on thematic areas of concern, specific cases or petitions, or precautionary measures. Additionally, the Commission may hold private hearings when requested by petitioners or the State concerned;²⁰ working meetings to discuss a petition or case, precautionary measures, or other matters "in process before the State;"²¹ and bi-lateral meetings with civil society members and organizations, high-level human rights officials, such as United Nations

Years, 5 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/096.asp. As of January 2019, the IACHR has yet to announce a replacement for Abi-Mershed.

¹² IACHR, Rules of Procedure, art. 11.

¹³ *Id.* at arts. 11-12.

¹⁴ See IACHR, What is the IACHR?, <http://www.oas.org/en/iachr/mandate/what.asp>.

¹⁵ IACHR, Rules of Procedure, art. 14(1).

¹⁶ *Id.* at art. 14(2).

¹⁷ See, e.g., IACHR, Press Release, IACHR Announces Periods of Sessions and Third IASHR Forum in 2019, 16 November 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/241.asp; IACHR, Press Release, IACHR Announces Five Sessions for 2017, 6 February 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/010.asp.

¹⁸ See, e.g., IACHR, Press Release, IACHR Announces Location for its 169 Period of Sessions, 9 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/099.asp; IACHR, Press Release, IACHR Announces Schedule of Public Hearings for its 164th Sessions and Calls for Participation in Hearings Convened at its own Initiative, 7 August 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/116.asp.

¹⁹ IACHR, Sessions, <http://www.oas.org/es/cidh/audiencias/default.aspx?lang=en>.

²⁰ IACHR, Rules of Procedure, art. 68.

²¹ See, e.g., IACHR, Request for Hearing or Working Meeting – 169 PS, <https://www.oas.org/forms/TakeSurvey.aspx?SurveyID=7831414>. Note that this link is not live when the survey is not open.

independent experts, or other interested parties to discuss thematic areas of interest or concern.²² During its sessions, the Commission also participates in promotional events or activities that are open to civil society participation.

Civil society members and organizations may engage with the Commission during its periods of sessions in various ways. Anyone may attend or watch online the public hearings and other public events organized during sessions. Civil society may actively participate during a session by: requesting a hearing or working meeting; being invited to participate in a hearing convened by the IACHR at its own initiative (*ex officio* hearing); making a written or oral statement during a hearing; or participating in a hearing, working meeting, or bi-lateral meeting. Civil society may also engage with the IACHR at sessions by: conveying information—orally or in writing—to the Commissioners, Special Rapporteurs, or the Executive Secretariat staff; speaking with State representatives, Commissioners, Special Rapporteurs, and the Executive Secretariat staff informally; attending IACHR panel discussions or launch events held during a session; and, organizing or participating in side events that may include Commissioners or Executive Secretariat staff as speakers or participants.

Outside of sessions, civil society members have additional opportunities to engage with the Commission. These include opportunities arising out of formal advocacy channels, such as submitting a petition alleging violations of the American Convention on Human Rights (American Convention) or the American Declaration on the Rights and Duties of Men (American Declaration), requesting precautionary measures to protect individuals at risk, or responding to questionnaires or surveys disseminated by the IACHR. Informal opportunities to engage with the IACHR members or staff include inviting them to participate in or speak at panels or conferences, meetings during a country visit that are not part of the official visit agenda, and meetings with the Secretariat's staff at the IACHR's headquarters in Washington D.C. that are not scheduled as part of a period of sessions.

Formal Requirements for Civil Society Engagement with the IACHR

The formal requirements that regulate the ways and means by which civil society can engage with the IACHR may also act as a barrier to effective civil society participation in and contribution to the work of the Commission. In this report, formal barriers to engagement refer to requirements that are imposed by IACHR or States that serve as a prerequisite for engagement on some level with the Commission. This may include the rules for admission to session, State travel or visa laws, formal petition requirements, rules for hearing requests, among other things. We found that several formal requirements, including rules about observer status, registration, language requirements, deadlines for submissions, in-person attendance, and travel authorization may limit effective civil society engagement.

²² See, e.g., IACHR, Press Release, Public Hearings, Working Meetings, Promotional Activities and Bi-lateral Meetings, 6 April 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/041A.asp.

Observer Status

Unlike the OAS,²³ the IACHR does not have a procedure in place for civil society organizations to obtain observer or civil society status, and no such registration is required to engage with the IACHR. Organizations with civil society status before the OAS are not provided additional opportunities for engagement before the Commission. However, organizations with civil society status before the OAS are afforded more opportunities for engagement with OAS mechanisms, such as the OAS General Assembly, and serve a more active role in OAS meetings.²⁴ Engagement with OAS mechanisms is outside the scope of this report.

Registration

The IACHR does not require those wishing to attend public hearings to register ahead of attending a session. Although civil society, members of the press, and the general public may attend hearings without prior registration, attendance is granted on a first-come first-served basis and may be limited due to the size of the hearing room.²⁵ Moreover, individuals attending the sessions may be asked to register upon entering the building in which the sessions are taking place.²⁶ While registration was not required for individuals attending the 167th and 168th Periods of Sessions held in Colombia and the Dominican Republic, respectively, OAS security staff generally registers individuals attending sessions that are held at headquarters. The registration process at headquarters requires individuals to show a photo identification to OAS security staff; to list their name, their organization, and contact information in a sign-in sheet; and to wear a guest badge while in the building.²⁷ The badge also has the date on it, so that individuals have to sign in each day they attend. Additionally, each attendee is asked which hearing he or she is attending so that OAS security can print the room number on the tag. The attendee, however, can move around to different hearings and rooms once in the building because there are no internal controls.

Civil society organizations and individuals that are invited to participate in a hearing are also required to submit a letter requesting accreditation from the Commission at least 20 days from when the IACHR invites civil society to participate in a hearing. The letter must include confirmation of participation in the hearing on the specified day and time and a list of names of individuals that will be attending the hearing as part of the organization's delegation.²⁸

Hearing and meeting participants are generally required to participate in person (as opposed to virtually), although hearings have included virtual and video presentations when at least one civil society

²³ See OAS, Civil Society Status with the OAS, http://www.oas.org/en/ser/dia/civil_society/Status.shtml.

²⁴ For the list registered Civil Society Organizations see OAS, Civil Society Registry, http://www.oas.org/en/ser/dia/civil_society/registry.shtml.

²⁵ See generally, IACHR, Rules of Procedure, art. 68.

²⁶ IACHR, Relevant Information on Hearings, http://www.oas.org/en/iachr/media_center/coverage.asp.

²⁷ This process varies at times and is not always required.

²⁸ Letter from Elizabeth Abi-Mershed, Assistant Executive Secretary, Inter-American Commission on Human Rights, to Alisa Lombard, Associate, Maurice Law (Jan. 25, 2018) (on file with IJRC).

representative participates in person.²⁹ However, the Commission does not publicly state that virtual participation is an option in its online request system, invitation to a hearing, or press releases.³⁰

If an individual is requesting a letter from the Executive Secretariat in support of a travel visa, the letter must also include the name of the individual(s) requesting the letter, date of birth, nationality, passport number, country and city where the visa will be requested, the organization that the individual is associated with, and contact information.³¹

Official Languages & Language Requirements

The Commission's Rules of Procedure and the IACHR's website indicate that participants may speak and submit information to the Commission in any of the official languages of the OAS, which are Spanish, English, French, and Portuguese.³² Live interpretation into Spanish and English is generally provided at public hearings and other public activities, which are also streamed online in those languages.³³ If French or Portuguese interpretation is available, the Commission will also broadcast hearings in those languages. However, video recordings of hearings are only made available in their original language (that is, without interpretation) or in the Spanish translation. In a handful of occasions, the Commission has also provided sign language interpretation.³⁴

Deadlines, Prior Notice, & Limitations on Length

The Commission regulates civil society engagement via rules and requirements that are sometimes explicit, such as deadlines for hearing requests, but sometimes vague, such as regarding whether a particular topic will be addressed in an *ex officio* hearing. In many circumstances, the IACHR has not publicly communicated any rules or requirements, even if it may have internal guidelines, such as with regard to requests for bi-lateral meetings between civil society and the IACHR or the use of technology to enable remote or virtual participation in hearings. In some instances, there are apparently no relevant rules or requirements, such as regarding the length of written submissions delivered to the Commission in connection with a hearing. In addition, the number and timing of sessions, hearings, and meetings vary from year to year. Formal rules and requirements, or the lack thereof, shape the manner in which civil society members engage with the Commission, including whether and how they submit hearing requests, information on thematic reports, or petitions on alleged violations of the American Convention or American Declaration.

²⁹ See, e.g., IACHR, Press Release, Public Hearings, Working Meetings, Promotional Activities and Bi-lateral Meetings, 6 April 2018 (stating that the "hearing was held with virtual participation from Cuba"), http://www.oas.org/en/iachr/media_center/PReleases/2018/041A.asp; Comisión Interamericana de Derechos Humanos, *Bahamas Caso Cardinal Oscar Moncur*, YOUTUBE (May 9, 2018), <https://www.youtube.com/watch?v=7LMNo5DXmmU>.

³⁰ See Letter from Elizabeth Abi-Mershed, *supra* note 28.

³¹ *Id.*

³² IACHR, Rules of Procedure, art. 22; IACHR, Relevant Information on Hearings, http://www.oas.org/en/iachr/media_center/coverage.asp.

³³ See, e.g., Comisión Interamericana de Derechos Humanos, YOUTUBE, <https://www.youtube.com/user/ComisionIDH/featured>.

³⁴ See, e.g., Comisión Interamericana de Derechos Humanos, *Bolivia: Independencia judicial*, YOUTUBE (Oct. 25, 2017), https://www.youtube.com/watch?v=F_BJCLR4jql.

Hearing Requests

Hearings before the Commission are held during periods of sessions and are governed by articles 61 to 70 of the IACHR Rules of Procedure.³⁵ The Rules of Procedure require the IACHR to hold “at least two regular periods of sessions per year . . . and as many special sessions as it deems necessary,”³⁶ and to hold “the number of [hearings] necessary to carry out its activities.”³⁷ While the IACHR has begun to hold more periods of sessions per year, the number of hearings and meetings that it is able to hold in any given year doesn’t necessarily reflect or respond to the demand.³⁸

Any “interested party” may request a hearing to provide the Commission with information regarding a petition or case, to follow up on recommendations, to provide information on precautionary measures in process before the Commission, or to provide information of a general nature related to the human rights situation in one or more Member States of the OAS.³⁹ There are no restrictions on who may be considered an “interested party,” and the IACHR accepts hearing requests presented jointly or independently by States, governmental entities (including national human rights institutions), civil society organizations, academic institutions, informal associations or networks, victims, and victims’ legal representatives.

To submit a successful hearing request before the IACHR, interested parties must comply with several formal requirements.⁴⁰ Parties must submit requests in writing, and at least 50 days prior to the date on which the session will start.⁴¹ Hearing requests must include information about the purpose of the hearing and must identify the participants.⁴² In recent years, the IACHR has required that interested parties submit their requests for hearings via an online portal that is available on the IACHR website prior to the session.⁴³ The online portal is available in the four official languages of the OAS—Spanish, English, Portuguese, and French—and is the only means to submit requests for hearings.⁴⁴ The IACHR’s online portal accepts documents only up to 2000 KB in size.⁴⁵ While there is no specific format or template that must be followed when submitting a hearing request, hearing requests should include (1) a description of the requesting party or parties; (2) a substantive analysis that includes factual information about the situation giving rise to the human rights violations alleged and that makes a compelling argument for why a hearing on this situation is timely and important; (3) the domestic, regional, and international legal frameworks

³⁵ See IACHR, Rules of Procedure, arts. 61-70.

³⁶ *Id.* at art. 14(1).

³⁷ *Id.* at art. 14(3).

³⁸ See IACHR, Sessions, <http://www.oas.org/es/cidh/audiencias/default.aspx?lang=en>.

³⁹ See IACHR, Rules of Procedure, arts. 62, 66.

⁴⁰ See *id.* at arts. 64, 66.

⁴¹ *Id.* at arts. 61, 64(2).

⁴² *Id.* at art. 64(2).

⁴³ See IACHR, Sistema de Solicitud de Audiencia y/o Reunión de Trabajo (HRS) MANUAL DE USUARIO, available at <http://www.oas.org/es/cidh/ayuda/Manual-Usuario-HRS.pdf> (Spanish only); see also IACHR, Press Release, IACHR Is Accepting Requests for Hearings for its 169th Period of Sessions, 21 June 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/132.asp; IACHR, Press Release, IACHR Announces Location for its 169 Period of Sessions, 9 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/099.asp;

⁴⁴ See IACHR, Press Release, IACHR Is Accepting Requests for Hearings for its 169th Period of Sessions, 21 June 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/132.asp (noting that the “system is the only means to submit these requests....”).

⁴⁵ IACHR, Sistema de Solicitud de Audiencia y/o Reunión de Trabajo (HRS) MANUAL DE USUARIO, *supra* note 43.

relevant to the factual information being presented in the request, including the relevant State's human rights obligations; (4) a statement concretely explaining why IACHR oversight is necessary; (5) a proposed list of State representatives who the IACHR should invite to participate in the hearing, should it be granted; and (6) specific recommendations for the IACHR to address the situation at issue. The hearing request should be supported by personal narratives, statements from human rights experts, news stories, statements by government representatives, or other materials that demonstrate the urgency of the issue and why the IACHR should address it at its next period of sessions.

The President of the Commission formally makes the decision to convene a hearing at the proposal of the Executive Secretary.⁴⁶ According to the Rules of Procedure and IACHR press releases, the Executive Secretariat is required to send the decisions regarding hearing requests to the parties at least one month prior to the start of the period of sessions.⁴⁷ The Rules of Procedure provide that this time period may be reduced "under exceptional circumstances."⁴⁸

Given that the Rules of Procedure do not specify when parties should request that a hearing be held in private, petitioners and the State may make the request for a private hearing at any point prior to the hearing, or the Commission may decide to hold a hearing in private at its own initiative.⁴⁹ However, hearings will generally be held in public unless "exceptional circumstances" warrant that they be held in private.⁵⁰ It is up to the Commission to make this determination.⁵¹

Ex Officio Hearings

The Commission may also request civil society participation for hearings that it holds at its own initiative (*ex officio* hearings).⁵² In practice, the Commission announces *ex officio* hearings after it has made all decisions on hearing requests, at the same time it announces the hearing schedule for a particular session, which is typically a month or less in advance of the session.⁵³ When the Commission announces *ex officio* hearings, it invites civil society to submit "expressions of interest" to participate in those hearings.⁵⁴

⁴⁶ IACHR, Rules of Procedure, art. 61.

⁴⁷ *Id.* at art. 64(4); *see also* IACHR, Press Release, IACHR Is Accepting Requests for Hearings for its 169th Period of Sessions, 21 June 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/132.asp.

⁴⁸ IACHR, Rules of Procedure, art. 66(5).

⁴⁹ *See* IACHR, Relevant Information on Hearings, http://www.oas.org/en/iachr/media_center/coverage.asp; IACHR, Rules of Procedure, art. 68; *see also* IACHR, Schedule of Hearings for the 161 Period of Sessions, March 2017, available at <http://www.oas.org/en/iachr/sessions/docs/Calendario-161-audiencias-en.pdf> (noting that the hearing on the Case 12.956 – F.S., Chile (Merits) would be held in private).

⁵⁰ IACHR, Rules of Procedure, art. 68.

⁵¹ *Id.* at art. 68.

⁵² *Id.* at art. 61.

⁵³ *See, e.g.*, IACHR, Press Release, IACHR Releases Schedule of Public Hearings for 171 Period of Sessions to be held in Sucre, Bolivia, and Calls for Participation in Hearing Ex Officio, 7 January 2019, http://www.oas.org/en/iachr/media_center/PReleases/2019/002.asp; IACHR, Press Release, IACHR Releases Schedule of Public Hearings for 168th Period of Sessions, Calls for Participation in Hearings Convened on its Own Initiative or Requested by a State, 11 April 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/080.asp.

⁵⁴ *See, e.g.*, IACHR, Press Release, IACHR Releases Schedule of Public Hearings for 168th Period of Sessions, Calls for Participation in Hearings Convened on its Own Initiative or Requested by a State, 11 April 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/080.asp.

Expressions of interest must be submitted via the same online portal used to make hearing requests.⁵⁵ The Commission has not provided additional guidance to the public on what an expression of interest should include, nor identified any guidelines it uses to determine how many or which organizations it will invite to participate.

The Commission notifies individuals or organizations that are selected to participate in *ex officio* hearings “at a later date” prior to the session.⁵⁶ The Rules of Procedure require that parties invited to participate are “duly notified.”⁵⁷ However, the rules are silent as to what the notification requirement entails, or what the notification time frame is or should be for *ex officio* hearings.⁵⁸ If parties that are summoned for an *ex officio* hearing have been “duly notified” but fail to appear, the Commission will proceed with the hearing.⁵⁹ In practice, the Commission typically notifies selected participants one or two weeks prior to the session, but does not notify or inform those who submitted expressions of interest but are *not* invited to participate.

Oral Statements

The Commissioner who presides over a hearing is responsible for determining how much time is allotted to civil society (or to the victims or their representatives) and to State representatives during a hearing.⁶⁰ Generally, the IACHR will allot one hour for each hearing,⁶¹ splitting that time between the parties participating in the hearing. As a general rule, the party that requested the hearing—it may be the State or civil society—will have the opportunity to speak first.⁶² If the hearing was convened *ex officio*, the Commission will allow civil society to speak first.⁶³ Once a party makes an oral statement, the Commission will allot to the responding party the same amount of time that was allotted to the first.⁶⁴ During thematic or case hearings involving one Member State, both parties (civil society and the State) are generally allotted 15 minutes. In regional (multi-country) thematic hearings, the party who solicited the hearing is allotted 20 minutes to speak and the other participants (either civil society or State representatives) are also allotted 20 minutes to make a statement.⁶⁵ In practice, the IACHR will readjust the time allotted to account for interruptions or extraordinary circumstances, such as a State failing to show up for a hearing.⁶⁶ After each party has had an opportunity to make its remarks, the Commission will pose questions to the

⁵⁵ *See id.*

⁵⁶ *See id.*

⁵⁷ IACHR, Rules of Procedure, art. 64(3).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Letter from Elizabeth Abi-Mershed, *supra* note 28.

⁶¹ *See, e.g.*, IACHR, Schedule of Hearings for the 169 Period of Sessions, 30 September – 5 October 2018, available at <http://www.oas.org/en/iachr/sessions/docs/Calendario-169-audiencias-en.pdf>; IACHR, Schedule of Hearings for the 170 Period of Sessions, 3-7 December 2018, available at <http://www.oas.org/es/cidh/prensa/comunicados/2018/240esp.pdf>.

⁶² Letter from Elizabeth Abi-Mershed, *supra* note 28.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *See, e.g.*, Comisión Interamericana de Derechos Humanos, *EEUU: defensores de migrantes*, YouTube (Dec. 5, 2018), <https://www.youtube.com/watch?v=B7md6cgz3YY> (allotting 25 minutes of speaking time to civil society organizations).

participants and allocate a specific amount of time—varying depending on the amount of time left in the hearing—to each party, providing them with an opportunity to respond. It is up to each party to determine how to use their allotted time and, if necessary, to divide speaking time between the participating organizations. Often, many organizations will collaborate on a joint hearing request and, if the request is granted, select only a few representatives to speak before the Commission.

In addition to the parties who submit a hearing request, the Commission may, at its own initiative, invite other interested parties to participate in hearings that concern the human rights situation in one or more Member States, or in hearings of a general interest, and may request that the organizations invited organize the allotted time to make a statement among themselves.⁶⁷ This has, in the past, included inviting representatives of governmental or intergovernmental entities and United Nations human rights experts to participate in hearings, either by presenting information or posing questions to participants.⁶⁸ Similarly, the Commission may consolidate various hearings requests that concern similar issues and request that the participating organizations split and coordinate the time allotted among themselves.⁶⁹

In practice, both States and civil society organizations may choose who speaks for them at IACHR hearings, although the Commission does ask for the names of participants. Civil society organizations may decide to feature another organization’s representative, victims, or external experts as speakers at the hearing.

Working Meetings

During periods of sessions, the IACHR also holds “working meetings.” This term is not included in the American Convention on Human Rights or in the IACHR’s Statute and is not defined in its Rules of Procedure, but it is understood to refer to meetings where the Commission and the parties involved in specific human rights disputes discuss precautionary measures, friendly settlements, pending petitions or cases, or implementation of the IACHR’s decisions or recommendations.⁷⁰ Working meetings have developed as a practice over time, initiated by the IACHR, to provide additional opportunities for discussion among Member States, petitioners, and victims.⁷¹ In 2018 alone, the IACHR held about 100 working meetings with civil society.⁷²

Like hearings, working meetings may be requested by interested parties or convened by the Commission *ex officio*.⁷³ Unlike hearings, working meetings are held in private, and the participants are limited to the

⁶⁷ IACHR, Rules of Procedure, art. 66(4).

⁶⁸ See, e.g., Comisión Interamericana de Derechos Humanos, *Caravana Migrantes*, YouTube (Dec. 6, 2018), <https://www.youtube.com/watch?v=vF4qXuJfUxY> (inviting the a representative from the United Nations regional office covering Central America and a representative from the Mexican National Human Rights Commission); Comisión Interamericana de Derechos Humanos, *Centroamérica Derechos Sexuales y Reproductivos*, YouTube (Feb. 27, 2018), <https://www.youtube.com/watch?v=l4-aSUM7Q44> (inviting the United Nations Special Rapporteur on violence against on violence against women to participate in the hearing without notifying civil society).

⁶⁹ Letter from Elizabeth Abi-Mershed, *supra* note 28.

⁷⁰ IACHR, Sistema de Solicitud de Audiencia y/o Reunión de Trabajo (HRS) MANUAL DE USUARIO, *supra* note 43, 4.

⁷¹ *Id.*; see also IACHR, Online Submission Request for Hearings and Working Meetings - 169 PS, <https://www.oas.org/forms/TakeSurvey.aspx?SurveyID=7831414>.

⁷² IACHR, Press Release, CIDH amplía y profundiza la participación de la sociedad civil en el cumplimiento de su mandato, 9 February 2019, <http://www.oas.org/es/cidh/prensa/comunicados/2019/031.asp> (Spanish only).

⁷³ See IACHR, Sistema de Solicitud de Audiencia y/o Reunión de Trabajo (HRS) MANUAL DE USUARIO, *supra* note 43, 4.

Commissioner Rapporteur on the respective issue area, Member States, and parties to the petition or matter at issue.⁷⁴ To request a working meeting on a petition or a precautionary measure, an individual or organization must be registered as a petitioner in the matter before the IACHR or be a representative of the respective State.⁷⁵

Reports

Civil society members may submit information to the Commission to assist in the preparation of its thematic, country, and annual reports.⁷⁶ Generally, the IACHR will publish targeted questionnaires to gather information on the relevant theme or country and solicit civil society participation. Questionnaires are usually published in the four official languages of the Commission, which are Spanish, French, English, and Portuguese.⁷⁷ While the questionnaires indicate that it is not necessary to answer all of the questions presented, the questionnaires provide little guidance on the length of the responses from civil society, on the required format, or on the type of information that must be included in order for the response to be considered. The Commission's Rules of Procedure are also silent on these requirements.

Additionally, there are no restrictions on the presentation of information, whether in writing, by telephone, or in person, to the Commissioners or IACHR staff. As discussed below, in the context of Country Visits and informal meetings in particular, the IACHR imposes no restrictions or requirements on such communications, but it also provides very little information to guide civil society members in contacting or communicating with the Commissioners or Executive Secretariat. The IACHR does use information collected through communications with civil society in the preparation of its reports, even if those communications were not made for that purpose.

Petition System

Civil society organizations, or their representatives, may submit petitions to the IACHR, so long as the organization is legally registered in an OAS Member State.⁷⁸ Individuals may also submit petitions in their personal capacity. The victim's consent is not required for another person to submit a petition on his or her behalf, although one or more victims must be specifically identified in the petition; *actio popularis* complaints are not permitted.⁷⁹ Civil society organizations may also represent victims or petitioners in complaint proceedings before the IACHR, without acting as the petitioner.

A petition must meet the requirements set out in Article 28 of the Rules of Procedure in order for the Commission to consider it.⁸⁰ The Executive Secretariat staff conducts the initial review of petitions, assessing whether they comply with the Article 28 of the Rules of Procedure by indicating: (1) the identity and contact information of the petitioner, including the country of legal registration for civil society organizations; (2) whether the petitioner's identity should be withheld from the State and, if so, why; (3)

⁷⁴ *Id.*

⁷⁵ IACHR, Online Submission Request for Hearings and Working Meetings - 169 PS, <https://www.oas.org/forms/TakeSurvey.aspx?SurveyID=7831414> (last accessed June 26, 2018).

⁷⁶ See IACHR, Questionnaires, <http://www.oas.org/en/iachr/reports/questionnaires.asp>.

⁷⁷ See *id.*

⁷⁸ IACHR, Rules of Procedure, art. 23.

⁷⁹ See, e.g., IACHR, Inadmissibility Report No. 100/14, Petition 11.082, *International Abductions* (United States), 7 November 2014, para. 27, available at <https://www.oas.org/en/iachr/decisions/2014/USIN11082EN.pdf>.

⁸⁰ IACHR, Rules of Procedure, art. 28.

the date, place, and details of the alleged violation of a right protected by an Inter-American instrument; (4) if possible, the victim's name and the name of any public authority with knowledge of the situation; (5) the State responsible for the alleged violation, due to its action, acquiescence, or omission; (6) the steps taken to exhaust domestic remedies or an indication that exhaustion was impossible; (7) that the petition has been submitted within six months of notification of the decision that exhausted domestic remedies, or otherwise within a reasonable time; and (8) whether the petition has been submitted to another international settlement proceeding.⁸¹ Additionally, the Executive Secretariat staff will determine whether the facts alleged, if true, could constitute a violation of one of the State's regional human rights obligations.⁸²

Most petitions to the IACHR are rejected in the initial review phase, for failure to meet the requirements of Article 28 of the Rules of Procedure.⁸³ In 2017, for example, the Executive Secretariat rejected 1,708 petitions upon initial review and opened 473 for processing; that same year, the IACHR had more than 4,000 petitions pending initial review.⁸⁴

If the petition satisfies the above requirements, it will be opened for processing and the Commissioners will decide on its admissibility. To be considered admissible, the petition must comply with Article 27 and articles 31 through 34 of the Rules of Procedure, which include the exhaustion of domestic remedies.⁸⁵ Generally, the exhaustion requirement involves appealing to the highest domestic court with jurisdiction over the petitioner's claim.⁸⁶ Petitioners then have six months to file their petition, after receiving notice of the decision that exhausted the domestic remedies.⁸⁷ However, when domestic remedies are unavailable, the petition must be submitted within a "reasonable time" and the meaning of this term is imprecise. The Commission will consider the date on which the alleged violation occurred and the circumstances of each particular case.⁸⁸ In particular, the IACHR will take into account whether the victim or petitioner took procedural steps, in good faith, to resolve the matter domestically after learning the facts and whether it was State action that caused the procedural delays.⁸⁹

If the Commission finds a petition admissible, the petitioners and the respondent State party will each have four months to submit initial arguments on the merits.⁹⁰ First, the petitioners will submit their observations. Then, the relevant observations will be transmitted to the State, and the State will have four

⁸¹ *Id.* at art. 28.

⁸² See IJRC, *Advocacy before the Inter-American System: A Manual for Attorneys and Advocates*, 18 (2014), <https://ijrcenter.org/wp-content/uploads/2014/03/Manual-Advocacy-before-the-Inter-American-System-2014.pdf>.

⁸³ See IACHR, Statistics, <http://www.oas.org/en/iachr/multimedia/statistics/statistics.html>.

⁸⁴ See *id.* (displaying the "Petition Opened/Not Opened for Processing" statistics by year).

⁸⁵ IACHR, Rules of Procedure, arts. 27, 31-34.

⁸⁶ For a comprehensive review of the exhaustion of domestic remedies requirement, see IJRC's Exhaustion of Domestic Remedies in the Inter-American Human Rights System, available at <https://ijrcenter.org/wp-content/uploads/2018/04/9.-Exhaustion-of-Domestic-Remedies-Inter-American-System.pdf>.

⁸⁷ IACHR, Rules of Procedure, art. 32.

⁸⁸ See, e.g., IACHR, Admissibility, Report No. 86/06, Petition 499-04, *Marino Lopez et al.* (Colombia), 21 October 2006, para. 53, available at <http://cidh.org/annualrep/2006eng/COLOMBIA.499.04eng.htm>.

⁸⁹ See, e.g., IACHR, Admissibility Report No. 54/05, Petition 150/01, *Raúl García Linera, et al.* (Bolivia), 12 October 2005, para. 45, available at <http://cidh.org/annualrep/2005eng/Bolivia.150.01eng.htm>.

⁹⁰ See IACHR, Rules of Procedure, arts. 36-37.

months to submit its own observations.⁹¹ The Executive Secretariat may grant requests for an extension to submit observations. However, extensions cannot exceed six months from the date that the initial request was sent to each party.⁹²

Before making a determination on the merits, the Commission may invite parties to submit additional observations in writing, and it will also designate a time period for the parties to decide whether they want to initiate a friendly settlement procedure pursuant to Article 40 of the Rules of Procedure.⁹³ Additionally, the Commission may convene a hearing on the case or conduct an on-site visit if it deems that it is necessary to advance the consideration of the case.⁹⁴ There are no specific, written criteria for these decisions.

Based on all information received, the Commissioners decide whether the State is responsible for a violation of the victim's rights. If the Commission finds no violation, it prepares and publishes a report detailing its analysis and conclusions. If the Commission finds the State is responsible for a violation of the American Declaration or American Convention, it prepares a preliminary report and list of recommendations for how the State can repair the violation and prevent its reoccurrence. The Commission's preliminary report is transmitted to the petitioner and the State, and the State is given a specific deadline, generally around two months' time, to report on the measures it has taken to comply with the recommendations.⁹⁵ The State may ask for extension(s) of this deadline. If the State fails to show it has made substantial progress towards compliance with the recommendations before the deadline set by the Commission passes, the Commission may either: (1) make its merits report public and continue to monitor compliance with the recommendations, or (2) refer the case to the Inter-American Court of Human Rights if the State has accepted the Court's jurisdiction.⁹⁶

If the matter has not been resolved or referred to the Court within three months of the transmission of the preliminary report to the parties, the Commission may prepare a final merits report, which will be communicated to the parties.⁹⁷ The parties will be given a defined time period in which to submit information on the State's compliance. After evaluating this information, the Commission votes whether to publish the merits report.

Victims and petitioners may access information about the status of their complaints and update their contact details on the Commission's Individual Petition System Portal, or online user portal.⁹⁸

Precautionary Measures

Precautionary measures are actions that the Commission may ask a State to take to protect an individual or community in immediate danger of serious and irreversible harm, or to protect the subject of a petition pending before the Inter-American System.⁹⁹ The IACHR may consult with civil society actors to obtain

⁹¹ *Id.* at arts. 36-37.

⁹² *Id.* at art. 37(2).

⁹³ *Id.* at arts. 37, 40.

⁹⁴ *Id.* at arts. 37(5), 39.

⁹⁵ *Id.* at art. 44(2).

⁹⁶ *Id.* at arts. 45, 47.

⁹⁷ *Id.* at art. 47.

⁹⁸ IACHR, Individual Petition System Portal, <http://www.oas.org/en/iachr/portal/>.

⁹⁹ IACHR, Rules of Procedure, art. 25.

relevant information to identify individuals or situations that may benefit from precautionary measures.¹⁰⁰ However, requests for precautionary measures may be prepared using a standard form, which can be submitted online,¹⁰¹ by postal mail, by email, or by fax. The request must explain why the situation is “serious,” “urgent,” and involves a risk of “irreparable harm” to an individual, group, or subject matter of a pending petition or case. Requests must also contain a “description of the measures of protection requested.”¹⁰² Further, the request must provide enough information to identify the individual or group of individuals at risk, explain the risks faced, whether the State is informed of those risks, and indicate whether the government has undertaken any protective action or investigation.¹⁰³ If the situation was not reported to the relevant local or national authorities, the request should explain why.¹⁰⁴

Any person or group, including civil society organizations, may request precautionary measures. While it is not necessary to identify every proposed beneficiary by name, a request for precautionary measures must contain enough to allow those individuals to be “determined or determinable through their geographic location or membership in or association with a group, people, community or organization.”¹⁰⁵ In many instances, members of civil society have requested precautionary measures because of risks they face in relation to their work as human rights defenders.¹⁰⁶ When the applicant for precautionary measures is different from the beneficiary—for example, when a civil society member or organization is requesting precautionary measures on behalf of victims—the request must include the express consent of the beneficiary unless the lack of consent can be explained.¹⁰⁷

The applicant and the State may request that the Commission modify or lift the precautionary measures, or the Commission may do it at its own initiative. If precautionary measures are granted against a State, the State may file a petition to lift the measures at any time. However, the Commission must request information from the beneficiaries before lifting the measures.¹⁰⁸

The timing of the Commission’s decision on a request for precautionary measures will depend on the circumstances that gave rise to the request before the Commission and whether the Commission requests additional information from the applicant or from the State. In particularly urgent situations—such as imposition of the death penalty—the Commission may respond within one week. Otherwise, a decision

¹⁰⁰ See IACHR, Press Release, CIDH amplía y profundiza la participación de la sociedad civil en el cumplimiento de su mandato, 9 February 2019, <http://www.oas.org/es/cidh/prensa/comunicados/2019/031.asp> (Spanish only).

¹⁰¹ Access the online petition form here: https://www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=E.

¹⁰² IACHR, Rules of Procedure, art. 25(4)(c).

¹⁰³ *Id.* at art. 25.

¹⁰⁴ *Id.* at art. 25.

¹⁰⁵ *Id.* at art. 25(3).

¹⁰⁶ See, e.g., IACHR, Press Release, IACHR Adopts New Precautionary Measures Based on MESENI’s Work, Condemns Attack on Félix Maradiaga, 12 July 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/150.asp; IACHR, Medida cautelar No. 1358-18, Resolución No. 89/2018, *Joana D’Arc Mendes* (Brasil), 7 diciembre 2018, available at <http://www.oas.org/es/cidh/decisiones/pdf/2018/89-18MC1358-18-BR-es.pdf>; IACHR, Medidas cautelares No. 939-18 y 1067-18, Resolución No. 70/2018, *Yerling Marina Aguilera Espinoza y otras (Diecisiete defensoras de derechos humanos)* (Nicaragua), 17 septiembre 2018, available at <http://www.oas.org/es/cidh/decisiones/pdf/2018/70-18MC939-18-NI.pdf>.

¹⁰⁷ IACHR, Rules of Procedure, art. 25(6)(c).

¹⁰⁸ *Id.* at art. 25(9).

more typically takes several months, depending on whether the initial request provides sufficient information and whether the State is also given an opportunity to present its views.

Travel Authorization

Individuals must secure their own visas or other necessary approval to enter the country where an IACHR session will be held. Civil society members attending a session may request a letter from the Commission's Executive Secretariat in support of a travel visa or to facilitate the process of obtaining one.¹⁰⁹

If requesting a letter in support of a travel visa from the Executive Secretariat, civil society members must include in their letter for accreditation the name of the individual(s) requesting the letter, date of birth, nationality, passport number, country and city where the visa will be requested, the organization that the individual is associated with, and contact information.¹¹⁰ The Commission informs civil society members that it may forward the list of participants to the hosting country's OAS Permanent Mission so that participants may enter the country. Civil society members that do not wish to be included in the list to the host country's OAS Permanent Mission must notify the Commission before the deadline indicated in the invitation letter to participate in a hearing.¹¹¹

While the IACHR will provide a letter in support of a travel visa for civil society members wishing to attend a session, several participants expressed concern over obstacles that they face when attempting to leave their countries to attend a hearing. In addition to being prohibited from traveling to where the session is to take place, these participants also noted that they face retaliation, harassment, and threats, including threats to their families, for attempting to attend a period of sessions.¹¹²

Informal Barriers to Civil Society Attendance at IACHR Sessions

In addition to the formal requirements to engagement identified above, the majority of participants in this study indicated that they face informal barriers to attendance, as well. These policies, practices, and external considerations that impact civil society members' ability to show up in person at an IACHR session may be related to, but are often separate from, both formal and Informal Barriers to Civil Society Participation at IACHR Sessions. This section, therefore, will only focus on IACHR practices that impact civil society attendance, but that are not explicitly required in its Rules of Procedure or imposed as a prerequisite for attendance to the IACHR sessions or to other types of engagement with the IACHR.

The primary informal barriers to civil society attendance are related to the lack of transparency and access to information on processes and practices; insufficient notice with respect to information that is publicly shared about a period of sessions and their location; safety and privacy concerns; inadequate accommodations for persons with disabilities; and the cost of attendance, obtaining visas, and distance of travel to the sessions.

¹⁰⁹ See Letter from Elizabeth Abi-Mershed, *supra* note 28.

¹¹⁰ See *id.*

¹¹¹ See *id.*

¹¹² See *infra* Safety & Privacy Concerns, *in* Informal Barriers to Civil Society Attendance at IACHR Sessions.

Timing & Notice of Session Logistics

The timing and notice of information that is shared publicly about a period of sessions affects civil society attendance at the Commission's sessions because it has a bearing on other logistical challenges that civil society members face, such as their ability to obtain visas to attend a session, arrange travel, and find funding to cover their travel and accommodation.¹¹³

For several decades, and certainly since 2010, the timing and notice period for sessions had been generally predictable given that the Commission had a practice of holding three periods of sessions per year and, generally, the sessions were held around the same time of year and at headquarters.¹¹⁴ However, since June 2016, the Commission has been holding four or more sessions per year, and at least half of its periods of sessions have been held away from its headquarters.¹¹⁵ Since then, the timing and spacing of periods of sessions has become unpredictable and irregular. For example, the IACHR convened four times in 2016 (in April, June, November, and December); six times in 2017 (in March, May, July, September, October and November); and four times in 2018 (in February, May, September, and December). It will hold four periods of sessions in 2019 (in February, May, September, and November).

The Commission's announcement of its schedule of hearings for 2018 and 2019 marked a welcomed improvement from prior years where lack of notice and predictability significantly impaired participants' advocacy strategy.¹¹⁶ In January of 2018, the IACHR announced that it would hold four periods of sessions and included the dates of these sessions.¹¹⁷ The IACHR also announced the location of two of the sessions and added that at least one of the remaining two would take place at its headquarters in Washington, D.C.¹¹⁸ Similarly, in November 2018, the IACHR announced the dates of its four planned periods of sessions for 2019, and identified the country locations for three of the sessions.¹¹⁹ While this advanced notice gives individuals and civil society members the ability to plan ahead, the lack of an explicitly stated or uniform practice regarding when announcements will be made requires that civil society members know of and routinely monitor the Commission's website, press releases, and social media accounts in order to find this information in a timely manner.

In recent years, the IACHR has generally decided on the location and dates of its next period of sessions during each period of sessions. The forthcoming date and location for the next session are shared on its website and via a press release before, or soon after, a period of sessions ends.¹²⁰ This practice has

¹¹³ See *supra* Travel Authorization, in Formal Requirements for Civil Society Engagement with the IACHR.

¹¹⁴ See IACHR, Sessions, <http://www.oas.org/es/cidh/audiencias/default.aspx?lang=en>.

¹¹⁵ See *id.*

¹¹⁶ IACHR, Press Release, IACHR Announces its Schedule for 2018, 30 January 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/012.asp.

¹¹⁷ See *id.*

¹¹⁸ See *id.*

¹¹⁹ IACHR, Press Release, IACHR Announces Periods of Sessions and Third IASHR Forum in 2019, 16 November 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/241.asp.

¹²⁰ See, e.g., IACHR, Press Release, IACHR Announces Location for its 169 Period of Sessions, 9 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/099.asp (announcing 169 Period of Sessions on May 9, 2018, two days prior to the end of the 168 Period of Sessions); see also IACHR, Press Release, IACHR Is Accepting Requests for Hearings for its 167th Sessions, 22 November 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/190.asp (announcing 167 Period of Sessions on November 22, 2017, while the 166 Period of Sessions was ongoing).

resulted in the date and location of a period of sessions being announced three or four months before its start date.¹²¹

However, regardless of when the IACHR announces which city or country will host its next session, the specific location is often not identified until much later. When sessions take place outside of headquarters, it is often the case that the hotel, campus, or building where the session will be held is not announced until days before the session is to begin. For example, for its 167th Period of Sessions held in Colombia, the Commission announced on February 14, 2018 the hotel in which the session would take place. The session was scheduled to begin on February 22, 2018. This information was sent via email to individuals subscribed to the IACHR distribution list,¹²² but was not published on the “Press Release” section of the Commission’s webpage.¹²³ Individuals and civil society members not subscribed to the Commission’s distribution list would have had to check the updated press release that had been published about a month before¹²⁴ or the schedule of hearings for the session that was also updated to include the location.¹²⁵ While the time period in announcing where the session will take place is not always so short, it nevertheless presents a significant barrier for civil society members who have limited resources or must obtain funding for their travel and accommodation. Coupled with the IACHR’s practice of not holding any hearings or working meetings concerning the host State when it convenes away from headquarters, advanced notice and access to this information is crucial for civil society members who are deciding whether and when to submit a hearing request, based on costs associated with travel and other benefits that could be obtained through participation in a particular period of sessions.¹²⁶

Moreover, participants in this study expressed concerns over the Commission’s practice of opening the hearing request period while a period of sessions is ongoing. They noted that the overlap of a hearing request period with ongoing hearings significantly limits their ability to prepare a hearing request and to coordinate with other organizations that would be interested in joining their hearing request.

In addition to hearings, the IACHR also holds launch events for reports or panel discussions as part of its promotional mandate that are part of the session agenda.¹²⁷ The purpose of these events is for the IACHR

¹²¹ See *id.*; see also IACHR, Press Release, IACHR Announces Location for its 169 Period of Sessions, 9 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/099.asp (announcing the date and location of the 169 Period of Sessions four months ahead of the session).

¹²² See Letter from Elizabeth Abi-Mershed, *supra* note 28.

¹²³ See IACHR, Press Releases 2018, http://www.oas.org/en/iachr/media_center/press_releases.asp.

¹²⁴ IACHR, Press Release, IACHR Announces Schedule of Public Hearings for its 167th Sessions and Calls for Participation in Hearings Convened at its own Initiative, 30 January 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/014.asp (updated to include the location).

¹²⁵ IACHR, Schedule of Hearings for the 167 Period of Sessions, *available at* <http://www.oas.org/en/iachr/sessions/docs/Calendario-167-audiencias-en.pdf>.

¹²⁶ This point not only impacts civil society’s ability to attend a session, but also its ability to *participate* in sessions. Refer to the section on Timing & Notice of Session Logistics *in* Informal Barriers to Civil Society Attendance at IACHR Sessions for additional information on how planning impacts civil society’s ability to participate in sessions.

¹²⁷ These events are open to the public and typically take place in the evenings, after the hearings scheduled for the day have concluded. The topics of the events vary, but they may include presentations on thematic reports that the IACHR recently published, presentations on human rights standards that apply to pressing situations impacting the rights of persons in Member States, or dialogues regarding human rights situations impacting the region. See CIDH, Evento Promocional - 168 Período Extraordinario de Sesiones,

and the Secretariat to hold a dialogue with civil society members. These events are typically announced at the period of sessions during which they are taking place and are open to the public. The Commission generally publishes information about these events the week before the session begins or while its ongoing. The information about these events is available on the IACHR Sessions webpage; however, it is only available in the Spanish version of the page (“Períodos de Sesiones celebrados”).¹²⁸ The Commission publishes the Spanish announcement on its Facebook and Twitter social media accounts, but the lack of publicity in other languages and the short notice provided may hinder the ability of civil society to participate in these events.

Transparency & Access to Information

A lack of complete information and transparency in procedure and practices presents barriers to civil society members’ attendance at the Commission’s sessions. In particular, the lack of an official portal for monitoring which requests for hearings and working meetings are granted and denied, information regarding Bi-lateral Meetings and how to request them, information regarding who to contact about a specific matter and how to contact them other than by using the institutional email address, and the lack of materials in all of the Commission’s official languages present barriers to attendance to sessions.

While the Commission has an official online system for requesting hearings and working meetings, that system is not used to notify users of the outcome of their request. As indicated earlier, the IACHR only notifies those whose requests are granted, and does so via individual emails. Additionally, the IACHR does not post the schedule of hearings and related press releases in a systematic or uniform manner, making it difficult to predict when the schedule of hearings will be published on the website. Given that the Commission often publishes the schedule of hearings less than a month before the start of the session,¹²⁹ participants in this study indicated that without knowing what will be on the calendar of hearings ahead of time, the logistics of planning to attend the sessions can be challenging enough that civil society members may not be able to attend.

Moreover, the IACHR does not publish the Executive Secretariat’s organizational structure on its website, making it difficult for individuals to know what each office or section is responsible for, or who is working

<http://www.oas.org/es/cidh/sesiones/docs/Evento168RD.pdf>; CIDH, Evento Promocional - 167 Período de Sesiones, <http://www.oas.org/es/cidh/sesiones/docs/167-Evento27Feb.pdf>.

¹²⁸ Compare CIDH, Períodos de Sesiones Celebrados, <http://www.oas.org/es/cidh/actividades/sesiones.asp> (Spanish version of the webpage listing links to information regarding the side events that will take place during periods of sessions, including side events with civil society); with IACHR, IACHR Sessions, <http://www.oas.org/en/iachr/activities/sessions.asp> (English version of the webpage not listing any information about these events).

¹²⁹ See, e.g., IACHR, Press Release, IACHR Releases Schedule of Public Hearings for 168th Period of Sessions, Calls for Participation in Hearings Convened on its Own Initiative or Requested by a State, 11 April 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/080.asp (announcing the schedule of hearings on April 11 when the session will begin on May 3); IACHR, Press Release, IACHR Announces Schedule of Public Hearings for its 166th Sessions, 9 November 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/178.asp (announcing the schedule of hearings on November 9 when the session will begin on November 29); see also Timing & Notice of Session Logistics, in Informal Barriers to Civil Society Attendance at IACHR Sessions.

on what. In its 2018 Annual Report, the IACHR included an organizational chart¹³⁰ laying out the Executive Secretariat's structure that helps increase transparency, but that would be most useful if posted on the website. Significantly, the Commission does not provide information on how to contact members of the IACHR or Executive Secretariat. The IACHR website does list the email addresses of the its rapporteurships¹³¹ and a general email address for the Executive Secretariat,¹³² but does not provide a current list of the Executive Secretariat staff members, individualized contacts for staff or Commissioners, or any online form that would allow people to direct their communications to the most appropriate person within the IACHR. Given that (1) the institutional email address is generally the only publicly available contact information for civil society and (2) requests made via the institutional email address often go unanswered, civil society members often rely on personal connections with Executive Secretariat staff to obtain information. Absent personal connections with Executive Secretariat staff or informal channels to obtain information, civil society members may not be able to access pertinent information. Therefore, most civil society members, namely all of those without deep personal or institutional connections, do not have sufficient access to information that may impact whether or not they can attend a session. For example, civil society members use these personal contacts to arrange bi-lateral meetings,¹³³ to send preparatory or follow-up briefings to the relevant Commission members and staff, to lobby for a hearing to be granted, to invite Commissioners to side events, and to get more advance notice of IACHR activities.

In addition to its website and the documents posted thereon, the IACHR also has social media accounts on Twitter, Facebook, YouTube, Flickr, and LinkedIn, which it uses to further disseminate and raise awareness of key information on dates, times, schedule of hearings, and to share important announcements, outcome documents, and reminders.

The IACHR's Facebook and Twitter accounts tend to be more active and timely than its other social media accounts. Generally, these accounts are used to publish information that has been announced via press releases. Note, however, that not all of the information published via press releases is published on social media accounts, and vice versa, and that the Commission is much more active on its Spanish social media accounts. For example, the IACHR's Spanish Twitter account has tweeted over 33,000 times and has over 400,000 followers,¹³⁴ while the IACHR's English Twitter account has only tweeted a little over 3,000 times and has less than 4,500 followers.¹³⁵ Therefore, civil society members should subscribe to the IACHR distribution list,¹³⁶ in both Spanish and English, and follow the IACHR's Spanish language Twitter account to ensure that they receive all relevant information and updates about the Commission's work.

¹³⁰ IACHR, *Annual Report 2018: Activities of the IACHR in 2018*, Ch.1, 18 (2018), available at <http://www.oas.org/en/iachr/docs/annual/2018/docs/IA2018cap.1-en.pdf>.

¹³¹ Each Commissioner is assigned to be the rapporteur of a specific list of countries and one thematic priority area, meaning that he or she is responsible for monitoring the country conditions in each country and the assigned thematic area. Unlike the Special Rapporteurs, who are independent experts, the rapporteurships are filled by the seven Commissioners themselves.

¹³² IACHR, Contact the IACHR, <http://www.oas.org/en/iachr/about/contactus.asp>.

¹³³ See *infra* Bi-lateral Meetings, in *Transparency & Access to Information*.

¹³⁴ Twitter, CIDH: Tweets (@CIDH), <https://twitter.com/CIDH> (last visited August 2018).

¹³⁵ Twitter, IACHR: Tweets (@IACHumanRights), <https://twitter.com/IACHumanRights?lang=en> (last visited August 2018).

¹³⁶ See Letter from Elizabeth Abi-Mershed, *supra* note 28.

Generally, the use of social media positively impacts transparency and access to information, and civil society members' attendance to sessions, including virtual "attendance" via YouTube livestreams on the IACHR's channel. However, civil society should not rely solely on social media accounts to receive full and accurate information about the Commission; civil society should instead use social media to supplement the information and documents found on the Commission's website.

Translation & Interpretation

The Commission's Rules of Procedure and website indicate that participants may speak and submit information to the Commission in any of the official languages of the OAS (Spanish, English, French, and Portuguese).¹³⁷ While the Commission routinely conducts most of its hearings in Spanish, it often provides interpretation into English—including via webcast—but English interpretation is not guaranteed. Consistent translation into other languages is less common and not always available. After the hearings, the videos are generally made available only with the original audio.¹³⁸ On its website, a majority of the webpages and documents are only fully available in English and Spanish; rarely are they available in French or Portuguese. For example, the Commission's schedule for 2018 that included the dates and location of planned sessions, and planned on-site visits was only made available in English and Spanish.¹³⁹ And, significantly, the user manual for the online request system—Sistema de Solicitud de Audiencia y/o Reunión de Trabajo (HRS) MANUAL DE USUARIO—is only available in Spanish.¹⁴⁰

Safety & Privacy Concerns

While none of the participants in this study indicated that safety and privacy concerns personally prevented them from attending a session, participants did report that safety is a concern for other civil society members and individuals seeking to attend and cooperate with the Commission due to concerns over acts of reprisal¹⁴¹ against them. The IACHR is aware of reprisals against civil society members that attend its sessions or other meetings, and has taken steps to condemn and address attacks and acts of intimidation by States and others.¹⁴² The Commission's Rules of Procedure also make States responsible for the safety of session participants, indicating in Article 63, "The State in question [in a particular hearing] shall grant the necessary guarantees to all the persons who attend a hearing or who in the course of a hearing provide information, testimony or evidence of any type to the Commission. That State may not prosecute the witnesses or experts, or carry out reprisals against them or their family members

¹³⁷ IACHR, Rules of Procedure, art. 22; IACHR, Relevant Information on Hearings, http://www.oas.org/en/iachr/media_center/coverage.asp.

¹³⁸ See IACHR, Relevant Information on Hearings, http://www.oas.org/en/iachr/media_center/coverage.asp.

¹³⁹ IACHR, Press Release, IACHR Announces its Schedule for 2018, 30 January 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/012.asp.

¹⁴⁰ IACHR, Sistema de Solicitud de Audiencia y/o Reunión de Trabajo (HRS) MANUAL DE USUARIO, *supra* note 43.

¹⁴¹ Note that the IACHR uses the words "reprisal" and "retaliation" interchangeably.

¹⁴² See, e.g., IACHR, Press Release, IACHR Wraps Up its 154th Session, 27 March 2015, http://www.oas.org/en/iachr/media_center/PReleases/2015/037.asp (condemning reprisals and threats against civil society for attending the 154 Period of Sessions and engaging with the Inter-American System); IACHR, Press Release, IACHR Deplores Reprisals Against Individuals who Com[e] Before the Inter-American Commission, 4 November 2011, http://www.oas.org/en/iachr/media_center/preleases/2011/116.asp (expressing concern over "the fact that ... individuals who appear at IACHR hearings and working meetings have been subject to threats, reprisals and actions to discredit them).

because of their statements or expert opinions given before the Commission.” Nevertheless, the IACHR has identified the security of civil society members as a continuing problem.¹⁴³

As mentioned above, the Commission broadcasts public hearings on its website and allows individuals, organizations, institutions, and media outlets to obtain copies of the recording; allows external websites to embed the live broadcast on their own sites; covers the hearings on social media, including via Twitter, Facebook, YouTube, and Flickr; uploads photographs of public hearings, the civil society plenary meeting, and other events;¹⁴⁴ allows members of the public, professional and news photographers to take photos; publishes audio recordings of the hearings; and allows individuals and institutions to record or photograph at their discretion.¹⁴⁵ The Commission only restricts these actions when they “interfere with the hearing proceedings [or] hamper the work of the technical staff . . .”¹⁴⁶ All of these practices increase the visibility of the Commission’s work and make it more accessible to civil society, yet, without available and accessible safety procedures or established procedures addressing privacy concerns, these practices present real barriers for civil society members wishing to attend the session who are concerned about threats or reprisals against them.¹⁴⁷

Accessibility for Persons with Disabilities

Persons with disabilities face particular barriers to attendance as civil society representatives. Generally, materials published by the Commission, including those on sessions, are not made available in formats or versions that make them more accessible to persons with disabilities. Notably, the Commission does not provide audio and braille formats.

However, the Commission has taken some steps to ensure accessibility for persons with disabilities. For example, the Commission provides a plug-in on its website that allows individuals to make the text in press releases larger if they choose to do so. Further, in 2013, the Commission announced that it would offer sign language interpretation and that it would create summaries of hearings for persons with disabilities.¹⁴⁸ More recently, the Commission created a Unit on the Rights of Persons with Disabilities.¹⁴⁹ The Unit on the Rights of Persons with Disabilities held its first consultation with civil society in June 2018, which was aimed at “identify[ing] the most pressing challenges facing persons with disabilities in the

¹⁴³ See, e.g., IACHR, Press Release, IACHR Wraps Up 167th Session in Colombia, 2 March 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/041.asp (noting warnings of potential reprisals against civil society members that participated during hearings and working meetings upon returning to their country); see also Joint statement on reprisals against individuals and groups seeking to cooperate with the United Nations, the African Commission on Human and People’s Rights and the Inter-American Commission on Human Rights, available at <http://www.oas.org/en/iachr/docs/pdf/Joint.Statement.Defenders.EN.pdf>.

¹⁴⁴ See, e.g., Comisión Interamericana de Derechos Humanos, *Washington: 170 período de sesiones – día 3*, FLICKR, (Feb. 8, 2019), <https://www.flickr.com/photos/cidh/albums/72157702884005911> (showing photos of civil society meeting on page four of the album).

¹⁴⁵ IACHR, Relevant Information on Hearings, http://www.oas.org/en/iachr/media_center/coverage.asp.

¹⁴⁶ See *id.*

¹⁴⁷ Refer to the section on Safety & Privacy Concerns, in *Informal Barriers to Civil Society Participation at IACHR Sessions* for additional information on this topic.

¹⁴⁸ IACHR, Press Release, IACHR Ensures Accessibility to Hearing for Persons with Disabilities, 30 October 2013, http://www.oas.org/en/iachr/media_center/preleases/2013/082.asp.

¹⁴⁹ IACHR, Press Releases, IACHR Creates New Thematic Units and Announces New Distribution of Rapporteurships, 24 May 2017, https://oas.org/en/iachr/media_center/PReleases/2017/066.asp.

region” and “design[ing] proposals for the lines of work that the Commission will then implement through its Thematic Unit.”¹⁵⁰

In practice, the Commission has not been consistent in providing sign language interpretation or materials that would facilitate access for persons with intellectual disabilities. Moreover, the Commission does not publish information on its website regarding accommodations that are, or that may be, provided to persons with physical, intellectual, or developmental disabilities who seek to attend a session. This information is also not communicated in the Commission’s invitation to civil society to participate in a hearing.¹⁵¹

Cost & Distance of Travel

As a regional human rights body that addresses human rights violations in the 35 OAS Member States, the IACHR’s sessions will be removed from many civil society members regardless of where it convenes. Participants in this study indicated that cost and distance of travel are significant barriers to attendance. Coupled with related logistical costs, such as obtaining a visa, and short notice of a session’s location or dates, the cost and distance of travel are a significant factor in civil society’s decision to attend a session.

Location of Sessions

In the past few years, the Commission has been holding sessions outside of the IACHR headquarters on a more regular basis. Note, for example, that between February 1972 and February 2019, a total of 23 periods of sessions have been held out of headquarters. Eleven out of those 23 periods of sessions have taken place in the last five years (2014 to 2019).¹⁵² While holding hearings around the region provides an opportunity for the Commission to directly observe the host country’s human rights situation and may facilitate access to the IACHR for civil society members in the host country, there are several factors that participants in this study highlighted as barriers to attendance when sessions are held outside of headquarters.

One of the most pressing factors participants stressed is the Commission’s practice to exclude discussion of the host country’s human rights situation when holding sessions in that country. Participants in this study noted that this has the effect of significantly reducing the opportunity for local civil society members to directly engage with the Commission at a low cost and to forge valuable relationships with local advocates. When they cannot request hearings or working meetings pertaining to the host country, the benefits of attending a session for local advocates are sharply reduced.¹⁵³

Similarly, participants indicated that they consider whether or not a session is being held outside of headquarters when weighing the costs of attending a session. Particularly, participants were mindful of their ability to meet with other international civil society organizations, donors, think tanks, State officials

¹⁵⁰ IACHR, Press Release, IACHR welcomes broad participation in consultation on Persons with Disabilities, 20 July 2018, https://oas.org/en/iachr/media_center/PReleases/2018/157.asp.

¹⁵¹ See Letter from Elizabeth Abi-Mershed, *supra* note 28.

¹⁵² IACHR, Sessions, <http://www.oas.org/es/cidh/audiencias/default.aspx?lang=en&page=1>.

¹⁵³ The location of sessions impacts civil society’s ability to attend and, relatedly, its ability to participate in a session. Refer to the section on Timing & Notice of Session Logistics, *in* Informal Barriers to Civil Society Attendance at IACHR Sessions for additional information on how timing and notice impacts civil society’s ability to plan for, and therefore participate in sessions.

based in Washington, D.C., or with the Commission's staff members that don't travel to sessions held outside of headquarters. They also expressed concerns over their inability to garner media attention and public support for a hearing held outside of headquarters. This was due to the fact that some of the larger media networks that are more easily able to disseminate information to a broad audience don't always have journalists or an office in the city where the sessions take place. Further, participants expressed that holding sessions outside of headquarters presents logistical barriers and increases the costs of obtaining visas when a civil society member's home country does not have an embassy in the city hosting the session.

Informal Barriers to Civil Society Participation at IACHR Sessions

Participants in this study indicated that they face barriers to participation in IACHR sessions. Informal barriers, in this section, refer to unwritten policies and practices or external considerations—rather than formal requirements—that impact civil society's ability to participate at IACHR sessions. These barriers may be related to, but are separate from the barriers to attending sessions that were discussed in the previous section.¹⁵⁴ The primary barriers to civil society participation that will be discussed in this section are: (1) the Commission's recent trend to convene more thematic hearings *ex officio*; (2) the lack of adequate information regarding civil society plenary meetings; (3) issues related to timing and notice; (4) the lack of transparency and access to information on processes and practices, including on bi-lateral meetings; (5) issues related to translation and interpretation; (6) concerns over individuals' safety and privacy; (7) issues related to accessibility for persons with disabilities; (8) perceived preferences towards certain individuals and organizations; (9) the openness towards and inclusion of civil society by Commissioners, IACHR staff, and the IACHR Executive Secretariat; (10) the time allotted to civil society oral statements; (11) accessibility to other meetings and events during a period of sessions; (12) the actions or inactions of other civil society members that attend sessions; and (13) States' ability to limit the scope of a hearing by failing to engage in the substantive issues being presented.

Barriers to engagement with the Commission may arise from the Commission's, civil society's, or State representatives' actions or inaction. However, the Commission's and civil society's actions can also facilitate engagement with the Commission, such as the Commission's general openness towards and willingness to speak with civil society members, and civil society's use of coalitions and alliances to engage in effective advocacy.

Ex Officio Hearings

Ex officio hearings are hearings that the Commission holds at its own initiative.¹⁵⁵ Unlike regular public hearings in which the topic of a hearing is driven by civil society members' requests, when a hearing is held *ex officio*, the Commission determines the topic and scope of the hearing, and selects the civil society organizations that it wants to invite to participate. There are no published guidelines or criteria upon which the *ex officio* hearings are determined, though the stated intent is to respond to pressing human

¹⁵⁴ See *supra* Informal Barriers to Civil Society Attendance at IACHR Sessions.

¹⁵⁵ IACHR, Rules of Procedure, art. 61.

rights issues in the region or to respond in a timely fashion to emerging issues that may not have been present at the time of the filing deadline for hearing requests. Some civil society participants indicated that—and a review of the topics suggests—that the Commission’s decision on topics for *ex officio* hearings may be based on the interests of individual Commissioners or technical sections of the Commission. Civil society organizations have also used public pressure or awareness-raising to encourage the IACHR to convene specific hearings, including *ex officio* hearings.¹⁵⁶

Although the Commission invites civil society to submit expressions of interest to participate when it convenes *ex officio* hearings,¹⁵⁷ participants in this study expressed that *ex officio* hearings limit civil society participation in sessions in various ways. Many participants noted with concern that *ex officio* hearings allow the Commission to set the agenda, rather than civil society, which hinders their ability to participate and advocate before the Commission.¹⁵⁸ In particular, participants were critical of the general scope of *ex officio* hearings, the lack of guidelines that the Commission uses to determine who or what organization it will invite to participate, the timing and notice given to civil society members that are invited to participate, and perceived elitism or preference in selecting organizations to participate.

With respect to setting the agenda, the participants explained that *ex officio* hearings, in their view, too often reflect the specific interests—geographic or thematic—of the Commissioners rather than the present concerns of civil society in the region. Participants expressed that this takes away from civil society’s ability to influence the regional human rights agenda. While participants acknowledged that there has been an overall increase in the number of hearings given that the Commission has begun to hold more periods of sessions per year, and that, presumably, this can compensate for the increase in *ex officio* hearings, they nevertheless highlighted that *ex officio* hearings decrease their opportunity to participate by limiting the probability that their request will be granted.

Further, the Commission tends to announce the hearings that it will hold *ex officio* at a later date than when it announces the regular-hearings schedule, making already tight deadlines tighter. For example, for the 168 Period of Sessions, the Commission called for requests from civil society to participate in *ex officio* hearings in the same press release in which it announced the schedule of hearings—less than a month before the session was to begin.¹⁵⁹ The Commission did not publish an additional press release announcing what organizations or individuals had been selected to participate in *ex officio* hearings,¹⁶⁰ therefore, it is difficult to generalize how far in advance the organizations or individuals received their notice to participate. Nevertheless, all participants that commented on *ex officio* hearings expressed that

¹⁵⁶ See, e.g., IJRC & ACLU, *Letter Re: Convening an Emergency Hearing on Executive Order “Protection the Nation from Foreign Terrorist Entry into the United States at March 2017 Period of Sessions*, available at https://ijrccenter.org/wp-content/uploads/2017/02/IACHR_Muslim-Ban-coalition-letter-Feb.-6-2017.pdf.

¹⁵⁷ See, e.g., IACHR, Press Release, IACHR Releases Schedule of Public Hearings for 168th Period of Sessions, Calls for Participation in Hearings Convened on its Own Initiative or Requested by a State, 11 April 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/080.asp.

¹⁵⁸ See *infra* Transparency & Access to Information, in *Informal Barriers to Civil Society Attendance at IACHR Sessions*.

¹⁵⁹ See, e.g., IACHR, Press Release, IACHR Releases Schedule of Public Hearings for 168th Period of Sessions, Calls for Participation in Hearings Convened on its Own Initiative or Requested by a State, 11 April 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/080.asp.

¹⁶⁰ See generally, IACHR, Press Releases, http://www.oas.org/en/iachr/media_center/press_releases.asp.

the amount of notice was insufficient to adequately prepare their advocacy strategy, coordinate with other organizations also invited, and make travel arrangements.¹⁶¹ IJRC observed how some of these alleged consequences play out during the 168 Period of Sessions when a Brazilian organization that had invited to participate in the *ex officio* hearing on “Freedom of Religion and the Secular State in Latin America” was unable to participate in the hearing given the lack of sufficient notice.¹⁶² Other participating organizations in the hearing noted that this organization would have contributed important information about the impact of practices related to the thematic topic on Afro-descendants—an objective of the hearing.¹⁶³

Moreover, the participants expressed that, in their view, the lack of guidelines on how the Commission determines what organizations it will invite to participate in *ex officio* hearings privileges civil society organizations and members that the Commission is already familiar with. These tend to be larger and well-funded organizations that not only have knowledge about the Inter-American System and how to engage with it, but that also have the resources to consistently engage before the Commission. Consequently, limiting civil society space and opportunity to engage with the Inter-American System for less well-known organizations, organizations that do not have the knowledge or resources to engage with the Commission, or organizations that do not engage with it frequently.

Civil Society Plenary

In at least the last few years, the Commission has held an open meeting with civil society during each of its sessions.¹⁶⁴ The meeting, which includes at least several Commissioners and the Executive Secretary, lasts one or two hours. The civil society plenary is open to anyone without prior registration; however, in order to speak at this meeting, civil society members must sign up on a list before the meeting begins. There are no publicly available instructions or guidance on the sign-up process, and the meeting is also typically not announced online in advance of the hearings or in the hearing schedule. At times, members of the public have caused disruptions that have led the IACHR to end the dialogue prematurely.¹⁶⁵ In these circumstances, the Commission has been responsive, stating that “the Commission will not tolerate

¹⁶¹ See *infra* Timing & Notice of Session Logistics, in *Informal Barriers to Civil Society Attendance at IACHR Sessions*.

¹⁶² Comisión Interamericana de Derechos Humanos, *Libertad religiosa y Estado laico*, YouTube (May 11, 2018), <https://www.youtube.com/watch?v=iXwmXa1zvaw>.

¹⁶³ *Id.*

¹⁶⁴ See, e.g., IACHR, Press Release, IACHR Concludes 169th Period of Sessions in Boulder, Colorado, 5 October 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/220.asp (noting that the “IACHR held a meeting with over 50 civil society organizations from within the Americas and beyond, at which it received worrying information on different human rights situations throughout the region.”); IACHR, Press Release, CIDH amplía y profundiza la participación de la sociedad civil en el cumplimiento de su mandato, 9 February 2019, <http://www.oas.org/es/cidh/prensa/comunicados/2019/031.asp> (Spanish only) (stating “En todos los períodos de sesiones se realizó una reunión abierta con la sociedad civil interamericana... ha resultado fundamental realizar reuniones en forma permanente con la sociedad civil para escuchar sus planteos, conocer sus necesidades, recibir sus opiniones sobre el trabajo de la Comisión y sus sugerencias sobre cómo mejorar de manera permanente nuestro trabajo.”).

¹⁶⁵ For example, during the 168 Period of Sessions in Santo Domingo, Dominican Republic, individuals from the group ‘Patriotas Dominicanos Contra Fusionistas’ disrupted the side event with the IACHR and civil society members. See <https://www.facebook.com/2024009337855503/videos/2053227464933690/>; see also IACHR, Press Release, IACHR Wraps Up 168th Session in Dominican Republic, 11 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/104.asp.

threats nor expressions that incite hatred and discrimination based on race, nationality, gender identity, sexual orientation, ability, appearance or any other such grounds.”¹⁶⁶ And has also called for “efforts to fight intolerance, discrimination, hate speech and incitations to violence, particularly through the promotion of a proactive discourse to encourage social inclusion and to ensure that persons and groups who have historically been in a situation of vulnerability may effectively exercise their rights.”¹⁶⁷

Timing and Notice of Hearings & Meetings

Participants in this study indicated two ways in which timing and notice limit civil society participation before the Commission. The first concerns the Commission’s practice of giving one month’s notice for regular hearings and less time for *ex officio* hearings, and the second concerns the actual duration of proceedings before the Commission.

With respect to notice of hearings and meetings, the lack of sufficient notice for regular hearings and for *ex officio* hearings poses a barrier both to civil society attendance and to civil society participation in sessions.¹⁶⁸ The Commission typically notifies individuals, including civil society members, that their hearing or meeting request has been approved between one week and one month before it is scheduled to take place. The Commission’s Rules of Procedure require that the Executive Secretariat notify the parties of the date, location, and time of the hearing at least one month prior to the hearing.¹⁶⁹ Only “in exceptional circumstances” can this time period be less than a month.¹⁷⁰ In practice, the Commission does not provide more advance notice than the minimum period that the Rules of Procedure require for hearings, and participants in this study indicated that notification for working meetings is often given less than 30 days in advance. Participants also indicated that in the last year (2018), the notice period has consistently been less than the required 30 days.

Participants in this study confirmed that a one-month notice period poses significant logistical challenges to participation, including with respect to planning travel and accommodations, obtaining the required travel visas or permits for victims or human rights defenders that are expected to participate in the hearing, and securing sufficient funding to attend. These challenges were even more pronounced for participants in *ex officio* hearings, who typically receive one or two weeks’ notice that they are invited to participate. At times, the notice between a hearing request approval and a hearing is insufficient to overcome some logistical requirements, such as obtaining a visa. Moreover, the timing of the Commission’s notice to individuals and civil society members that a hearing or meeting request has been approved impacts civil society members’ ability to coordinate before a hearing or meeting, to adequately prepare and coordinate with victims or others who will present at a hearing or meeting, to compile or

¹⁶⁶ IACHR, Press Release, IACHR Wraps Up 168th Session in Dominican Republic, 11 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/104.asp.

¹⁶⁷ *See id.*

¹⁶⁸ *See* UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights: Procedures and practices in respect of civil society engagement with international and regional organizations*, 18 April 2018, para. 38, available at <http://undocs.org/A/HRC/38/18>; IACHR, Rules of Procedure, art. 64(4); *see infra* Timing & Notice of Session Logistics, in *Informal Barriers to Civil Society Attendance at IACHR Sessions*.

¹⁶⁹ IACHR, Rules of Procedure, art. 64(4).

¹⁷⁰ *See id.*

draft complementary written materials, and to advance related advocacy efforts or to coordinate media coverage.

Further, the schedule of hearings for the session, which includes a list of all of the hearings that the Commission has granted for a session, is often not published until less than a month before the session is to begin.¹⁷¹ Given that the IACHR does not notify parties when their hearing request (or expression of interest in participating in an *ex officio* hearing) has been denied, absent internal conversations with the Executive Secretariat or its staff, the public schedule of hearings is the only manner in which parties whose requests were not granted learn that they will not be expected to attend. The online public schedule of hearings is often not updated with confirmed *ex officio* hearing participants until shortly before the session begins.

Participants in this study indicated that the lack of sufficient notice not only creates logistical barriers, but also impacts the substance of their work and their advocacy. For example, participants noted that civil society members do not have enough time to prepare the best submission to the Commission, make the most strategic decisions on what to raise before the Commission, prepare victims so that they can share all pertinent information at issue in the relevant hearing, and effectively collaborate with other organizations and individuals engaging with the Commission. Participants, including those with years of experience engaging with the Commission, stated that more notice is required to adequately prepare, and therefore, to participate effectively.

The duration of the proceedings also impacts participation. The usual 20-minute window allotted to civil society to present at a hearing is not always of a sufficient length to ensure effective participation. This timing issue is particularly concerning when multiple civil organizations request a hearing in coalition or when the Commission combines hearing requests and invites several organizations, with disparate areas of focus, to participate in one hearing. This concern is amplified given the limited timeframe that organizations have to coordinate and exists even when civil society members prepare in advance to ensure that their presentation is kept within the time allotted. For example, a participant in this study explained that during a hearing in which several organizations were invited to participate, the organizations drafted a joint statement to consolidate all of the information that the organizations wanted to convey. Despite the organizations' efforts to combine the topics and present the information within the 20-minute window, the time allotted did not allow for the entire statement to be presented and the contributions of some organizations were necessarily excluded.

Transparency & Access to Information

Lack of transparency on the part of the Commission on its processes and practices, and lack of access to complete information regarding the process for selecting topics for hearings and bi-lateral meetings can

¹⁷¹ See, e.g., IACHR, Press Release, IACHR Releases Schedule of Public Hearings for 168th Period of Sessions, Calls for Participation in Hearings Convened on its Own Initiative or Requested by a State, 11 April 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/080.asp (announcing the schedule of hearings on April 11 when the session will begin on May 3); IACHR, Press Release, IACHR Announces Schedule of Public Hearings for its 166th Sessions, 9 November 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/178.asp (announcing the schedule of hearings on November 9 when the session will begin on November 29).

hamper civil society's ability to conduct effective advocacy before the IACHR. Increased transparency regarding hearing requests, hearing topics, and hearing schedules is necessary to ensure civil society participation in IACHR sessions. The lack of transparency and complete information on these issues has an impact on civil society members' ability to plan and execute advocacy strategies, and make efficient use of their time.

The Commission does not make available information on its decision-making with regard to hearing and working meeting requests. There are no guidelines on hearing requests, either general or specific to particular sessions, that the IACHR has shared publicly. The IACHR does not indicate how many hearings will be held at a given session, although it does announce the number of days dedicated to hearings. It also does not identify any thematic or other priorities for its sessions. Doing so might help civil society determine whether or when to request a meeting or hearing, or how to tailor such requests.

According to participants in this study, the lack of publicly available criteria used to determine whether a request is granted for a particular period of sessions poses a significant barrier to participation because it prevents civil society from understanding whether it is the topic, substance, or timing of the hearing request that resulted in the denial. The lack of transparency and access to information regarding how many hearing requests are received versus how many are granted, and which hearings are granted versus which hearings are not also impacts civil society's ability to plan for *future* advocacy before the IACHR. In particular, participants explained that it is difficult to determine whether a hearing request, when denied, should be submitted at a future date and, therefore, how to allocate future advocacy efforts and resources.¹⁷² Participants in this study that tend to engage with the Commission on a regular basis and, therefore, know that a hearing request that is denied during one session may be granted during a future session, explained that they will often present several hearing requests on the same topic if their requests are denied the first or second time that they submit the requests to the IACHR. However, they also noted that they are more likely than newcomer organizations to engage in this practice. Further, participants with connections at the Commission often know what the IACHR plans to prioritize during a period of sessions based on their conversations with IACHR personnel with whom they have a personal relationship. Consequently, the lack of transparency in this respect may have the most significant impact on the ability to participate of organizations that don't have these relationships, newcomer organizations that don't know that a hearing request not granted for one session may be granted for a future session, or organizations that are smaller and don't have the resources to submit requests during various periods of sessions.

Participants also expressed concern over the lack of transparency and access to information regarding the selection of experts and organizations to participate in *ex officio* hearings, and the process for selecting topics for hearings held *ex officio*. In particular, participants expressed concern over the lack of transparency in selecting civil society members to participate *ex officio*, and observed that the IACHR tends to select organizations that it is familiar with or that it believes will draw attention to the hearings given the recognition of their name, but that may not be the most apt to speak about or present information on the topic at issue. Further, participants stated that the lack of publicly available

¹⁷² See *supra* Transparency & Access to Information, in *Informal Barriers to Civil Society Participation at IACHR Sessions*.

information on the IACHR's priorities for deciding on issues discussed in *ex officio* hearings, coupled with the lack of sufficient notice regarding the topics of these hearings, hinders their ability to adequately prepare and participate in hearings.

Bi-lateral Meetings

Finally, the lack of available information on bi-lateral meetings, in particular the lack of information on how to request a bi-lateral meeting and what to include in a request, limits the ways in which civil society can effectively participate before the IACHR.

While the online system portal specifically indicates that it can be used to request hearings or working meetings, the portal does not mention bi-lateral meetings. Additionally, the Rules of Procedure do not provide for bi-lateral meetings and the Commission does not publish information on its website or otherwise make publicly available any information on the existence or availability of bi-lateral meetings, how or when to request them, or any criteria that the IACHR uses to grant or deny these requests. There are no other rules, instructions, or materials referring to requests for bi-lateral meetings; however, it has been the Commission's practice to hold bi-lateral meetings during its sessions with civil society members and organizations, high-level human rights officials such as UN independent experts, or other interested parties to discuss thematic areas of interest or concern.¹⁷³ In 2018, the IACHR held approximately 130 bi-lateral meetings during its periods of sessions.¹⁷⁴

In practice, the IACHR receives requests for bi-lateral meetings via email. Advocates recommend that these requests be sent prior to a session, preferably when the online portal to request hearings and working meetings is open. The lack of a clear articulation and transparency on this practice prevents organizations that do not know about bi-lateral meetings, but would otherwise use this opportunity to engage with the Commission during a period of sessions, from participating in (and attending) a session.

Translation & Interpretation

Article 22 of the Commission's Rules of Procedure and the IACHR's website indicate that participants may speak and submit information to the Commission in any of the official languages of the OAS (Spanish, English, French, and Portuguese).¹⁷⁵ In practice, however, the Commission deviates from Article 22 of the Rules of Procedure in manners that may impact civil society participation. Several participants in this study indicated that the Commission is not always prepared to provide interpretation in the official languages for victims, civil society members, or to other members of the Commission and their staff when interpretation is necessary. For example, during the 165th Period of Sessions held in Uruguay, a hearing began without adequate interpretation for English-speaking civil society presenting on the situation of Afro-descendants in Jamaica.¹⁷⁶ Participants in this study indicated that in sessions held outside of

¹⁷³ See, e.g., IACHR, Press Release, Public Hearings, Working Meetings, Promotional Activities and Bi-lateral Meetings, 6 April 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/041A.asp.

¹⁷⁴ IACHR, Press Release, CIDH amplía y profundiza la participación de la sociedad civil en el cumplimiento de su mandato, 9 February 2019, <http://www.oas.org/es/cidh/prensa/comunicados/2019/031.asp> (Spanish only).

¹⁷⁵ IACHR, Rules of Procedure, art. 22; IACHR, Relevant Information on Hearings, http://www.oas.org/en/iachr/media_center/coverage.asp.

¹⁷⁶ See Comisión Interamericana de Derechos Humanos, *Jamaica afrodescendientes: Ejecuciones y prisión preventiva*, YouTube (Oct. 24, 2017), https://www.youtube.com/watch?v=Uo9AEKIX_GI&index=30&list=PL5QlapyOGhXvdhUdWzbRmDhNQU-Fs3U-2.

headquarters, English interpretation is sometimes only available in one of the two rooms where hearings are being held, often depending on whether or not the host country is able to cover the costs associated with interpretation. Additionally, French-speaking participants in this study indicated that French interpretation during hearings has not always been available for Haitian civil society members or victims engaging before the Commission. Moreover, participants that work with Indigenous communities in the Americas expressed concerns over the lack of language accommodations for individuals whose first language is one of the many Indigenous languages spoken in the region, and not one of the official languages.

While participants did not mention the availability of interpretation for working meetings or bi-lateral meetings, it is likely that the same challenges—lack of preparation, capacity, or access to interpreters—are present in these contexts.

Safety & Privacy Concerns

Participants in this study indicated that safety and privacy concerns may impact how civil society members and victims engage with the Commission.¹⁷⁷ In particular, participants noted two areas in which safety and privacy are at issue: the first is with respect to civil society participation in hearings, and the second concerns participation in public meetings held by the Commission during sessions.

With respect to participation during hearings, participants in this study noted that civil society members and victims may require certain accommodations from the Commission to ensure their safety and protect their privacy. This is because they face the risk of harassment, violence, and other reprisals in response to their advocacy before the IACHR. Notably, for example, the IACHR has no standardized process in place to allow participating individuals to opt out of having their photograph or video taken at hearings, or to keep their name or organization's name off of the public schedule.¹⁷⁸

Participants in this study who are familiar with the Commission's work noted that it is the IACHR's general practice to make a hearing private when civil society expresses security concerns. Participants also indicated that, if requested, the Commission has in the past provided other types of accommodations to address civil society members' privacy or safety concerns. For example, a participant explained that the Commission arranged for a victim to make her oral statement during a hearing behind a curtain so that State officials would not be able to identify her. However, participants suggested that the Commission may not always be prepared to or have the capacity to accommodate these requests. Further, given that information regarding these types of accommodations is not publicly available, individuals and civil society participating in hearings or seeking to engage with the Commission may not know that they can request certain accommodations to ensure that they are safe from State retaliation and that their privacy is protected.

Additionally, the accreditation letter¹⁷⁹ that individuals wishing to participate in a hearing must submit to the IACHR requires civil society members to submit personally identifiable information in connection with a human rights organization, which may pose a significant risk to those with legitimate concerns about

¹⁷⁷ See *supra* Safety & Privacy Concerns, in *Informal Barriers to Civil Society Attendance at IACHR Sessions*.

¹⁷⁸ See *id.*

¹⁷⁹ See *supra* Registration, in *Formal Requirements for Civil Society Engagement with the IACHR*.

State retaliation. For example, if an individual is requesting a letter from the Executive Secretariat in support of a travel visa, the accreditation letter must include the name, date of birth, nationality, organizational affiliation, contact information, and passport number of the individual(s) requesting the letter, as well as the country and city where the visa will be requested.¹⁸⁰ The Commission does not provide information regarding who else might have access to the accreditation letter or how the information provided is used. However, the Commission does inform civil society members that it may forward the list of participants to the OAS Permanent Mission of the country where the session will be held, and the Commission provides civil society members with the option to opt out of being included in the list to the host country's OAS Permanent Mission.¹⁸¹ Participants confirmed that the information in the accreditation letter is not shared with the State concerned, nor do they have any reason to believe that it would be shared.

With respect to participation in public civil society consultations or open meetings with civil society held by the Commission during sessions, participants in this study noted with concern the absence of protocols or procedures for warning individuals that State officials may be present, or for ensuring that individuals that might retaliate against civil society members are not present during these consultations. Specifically, participants stated that for civil society members and victims who fear reprisals against them from State officials, the presence of State officials or the possibility that they will be present during those public meetings may constitute a barrier to open participation. While the IACHR has taken steps to condemn and address attacks and acts of intimidation by States and others,¹⁸² it has implemented few protocols or procedures that would address privacy concerns.

Accessibility for Persons with Disabilities

In addition to being a barrier to attendance, barriers to accessing information or the venue for persons with disabilities can prevent individuals from fully participating.¹⁸³ As previously mentioned, the Commission does not publish information on its website regarding accommodations that are available for persons with physical disabilities that seek to attend a session. Further, the written materials that the Commission publishes online, including those on sessions, are not made available in audio or braille formats or in other versions that make them more accessible to persons with disabilities. However, the Commission does publish announcements in a format that allows individuals to zoom and select a larger

¹⁸⁰ Letter from Elizabeth Abi-Mershed, *supra* note 28.

¹⁸¹ *See id.* (stating “cumpló en poner a su conocimiento que la CIDH tiene previsto remitir a la Misión Permanente de Colombia ante la OEA la lista de personas que solicitaran visa de ingreso a dicho país con motivo de su asistencia a las audiencias. Si no desean que alguno de los participantes sea incluido en dicha lista, ruego nos lo hagan saber....”).

¹⁸² *See, e.g.*, IACHR, Press Release, IACHR Wraps Up its 154th Session, 27 March 2015, http://www.oas.org/en/iachr/media_center/PReleases/2015/037.asp (condemning reprisals and threats against civil society for attending the 154 Period of Sessions and engaging with the Inter-American System); IACHR, Press Release, IACHR Deplores Reprisals Against Individuals who Com[e] Before the Inter-American Commission, 4 November 2011, http://www.oas.org/en/iachr/media_center/preleases/2011/116.asp (expressing concern over “the fact that ... individuals who appear at IACHR hearings and working meetings have been subject to threats, reprisals and actions to discredit them”).

¹⁸³ *See supra* Accessibility for Persons with Disabilities, *in* Informal Barriers to Civil Society Attendance at IACHR Sessions.

print. While in the past the Commission has provided sign language interpretation,¹⁸⁴ the Commission has not been consistent in this practice.

Independence & Equal Access

While the IACHR is, on the whole, an independent body that vigorously and openly carries out its mandate, users of the System have identified weak points in its neutrality and independence. Civil society members, including participants in this study, have expressed concern over the Commission's perceived preferences towards certain issues and organizations, at the expense of others. Separately, some participants also explained how States influence the Commission's activities and have attempted to curtail its functioning, in keeping with their own agendas.

On the former, civil society noted that in their view the Commission prioritizes certain thematic issues or geographic areas, and that it tends to favor repeat actors before the Inter-American System and organizations that are bigger and well-known. For example, civil society members noted that the IACHR has been favoring hearings on Venezuela in the last few years.¹⁸⁵ Similarly, civil society members expressed concern over the Commissioners' apparent emphasis on issues related to their respective rapporteurships when responding to a request for information or to updates submitted by civil society. While civil society members acknowledged that these hearings are valuable and are needed, their opinion was that the schedule of hearings should be more balanced in addressing the needs in the region. For example, some participants in this study expressed the need to provide more space for issues related to lesbian, gay, bisexual, transgender/transsexual and intersexed (LGBTI) communities and to persons with disabilities.

Further, some participants in this study believed that when inviting organizations to participate in *ex officio* hearings, the Commission tends to favor bigger and well-known organizations over newcomers. Civil society members noted that less well-known organizations that work at a local level are often better equipped to address some of the topics that the Commission takes on. Civil society members that we interviewed cited the Commissioner's and the Executive Secretariat staff's personal preferences towards individuals and organizations as factors that impact civil society's ability to engage with the IACHR.

On the latter, participants noted that they generally do not have concerns over threats to the IACHR's independence, particularly with regard to its willingness to address human rights conditions and violations in the region. Nevertheless, the IACHR engages in practices that may call into question its independence;

¹⁸⁴ See, e.g., Comisión Interamericana de Derechos Humanos, *Bolivia: Independencia judicial*, YouTube (Oct. 25, 2017), https://www.youtube.com/watch?v=F_BJCLR4jql.

¹⁸⁵ See, e.g., IACHR, Schedule of Hearings for the 168 Period of Sessions, May 2018, available at <http://www.oas.org/en/iachr/sessions/docs/Calendario-168-audiencias-en.pdf> (noting that five hearings were held on Venezuela); IACHR, Schedule of Hearings for the 167 Period of Sessions, February 2018, available at <http://www.oas.org/en/iachr/sessions/docs/Calendario-167-audiencias-en.pdf> (noting that three hearings were held on Venezuela); IACHR, Schedule of Hearings for the 165 Period of Sessions, October 2017, available at <http://www.oas.org/en/iachr/sessions/docs/Calendario-165-audiencias-en.pdf> (noting that three hearings were held on Venezuela;); IACHR, Schedule of Hearings for the 163 Period of Sessions, July 2017, available at <http://www.oas.org/en/iachr/sessions/docs/Calendario-163-audiencias-en.pdf> (noting that five hearings were held on Venezuela); IACHR, *Annual Report 2018: Activities of the IACHR in 2018*, supra note 130, 18 (noting that 11 hearings were held on Venezuela – more than on any other country).

these are related to its reliance on funding—often earmarked for specific activities—from States, its interactions with State officials, and the process of electing Commissioners.

First, the IACHR’s reliance on earmarked State funding is particularly problematic when the donating State requires that the IACHR not use the funds to examine that State’s own human rights practices. For example, States often finance periods of sessions on the condition that the Commission exclude deliberations or public hearings on the host country.¹⁸⁶ Former Assistant Executive Secretary of the IACHR Elizabeth Abi-Mershed noted that “when [the IACHR] experienced what it termed a financial crisis in 2016, the Commission placed heavy emphasis on sessions away from headquarters, financed by the inviting State, as a way to ensure the continuity of sessions.”¹⁸⁷ While this has allowed the IACHR to advance its work and fulfill its mandate, as of December 2018, only two of the periods of sessions held outside of headquarters have included hearings examining the host country’s human rights situation.¹⁸⁸ Similarly, the reported emphasis on monitoring at the expense of petitions calls into question the IACHR’s independence because it may be perceived as a reluctance on the part of the IACHR to anger or confront States, or to preserve its funding.¹⁸⁹

States not only place restrictions on funding during periods of sessions, but can also place them on their voluntary donations for thematic reports or other promotional activities. For example, States may choose to provide funds for a specific thematic area or activity that reflects their own priorities or ideology, rather than allowing the IACHR to make those determinations for itself.¹⁹⁰ Funding from States that is specifically earmarked to curtail or direct the IACHR’s activities further raises concerns about its ability to act as an independent human rights monitor.

More broadly, the IACHR’s “strengthening process” in 2012 and the 2016 financial crisis¹⁹¹ exposed the IACHR’s budgetary constraints and its dependency on the political will of Member States to support its

¹⁸⁶ Elizabeth Abi-Mershed, *Human Rights Treaty Bodies in the field: The Inter-American Regional System and sessions away from headquarters*, Universal Rights Group (17 September 2018), <https://www.universal-rights.org/blog/human-rights-treaty-bodies-in-the-field-the-inter-american-regional-system-and-sessions-away-from-headquarters/>; see also Location of Sessions, in *Informal Barriers to Civil Society Attendance at IACHR Sessions*.

¹⁸⁷ Abi-Mershed, *supra* note 186.

¹⁸⁸ See *id.*; see also IACHR, Sessions, <http://www.oas.org/es/cidh/audiencias/default.aspx?lang=es> (listing a hearing on Uruguay during the 165th Period of Sessions held in Uruguay and a hearing on the United States during the 169th Period of Sessions held in the United States). Note, however, that hearings in the United States were not financed by the U.S. government, but rather by an academic institution. See IACHR, Press Release, IACHR Announces Location for its 169 Period of Sessions, 9 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/099.asp.

¹⁸⁹ The IACHR’s procedural backlog continues to be significant, yet the IACHR has made real progress in recent years addressing this issue “by substantially altering the way the Secretariat organizes its work, with more efficient and strategic management of the human resources and managerial and technological materials available, and by generating innovative management models.” IACHR, Press Release, IACHR completes 2 years of its Procedural Backlog Reduction Program and announces new actions approved following a second round of its participatory process of consultations, 5 December 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/257.asp.

¹⁹⁰ See, e.g., IACHR, Financial Resources, http://www.oas.org/en/iachr/mandate/financial_resources.asp (indicating the amount of “specific funds” received per year).

¹⁹¹ IACHR, Financial Crisis, http://www.oas.org/en/iachr/media_center/crisis-iachr.asp.

work.¹⁹² Criticism during the 2012 “strengthening process” and 2016 financial crisis, both from civil society and the Commission itself, focused on the IACHR’s functional independence and autonomy given its reliance on funding from and the political will of Member States. For its part, the “strengthening process” was marred with concerns that it would alter the IACHR’s procedures, including with respect to the Commission’s discretion in granting precautionary measures, in States’ favor and weaken its ability to monitor and protect human rights in the region at the expense of victims.¹⁹³ At the time, the IACHR proposed changes to its Rules of Procedure, policies, and practices, which were motivated by the Commission’s interest in increasing its transparency and effectiveness, but were also a proactive response to the OAS General Assembly’s proposals to modify the Commission as part of the “strengthening process.”¹⁹⁴ Ultimately, the changes implemented were generally positive, but the “political process” of revising the system’s procedures” was highly criticized.¹⁹⁵ With respect to the financial crisis, sufficient funds were eventually secured to temporarily mitigate the IACHR’s 2016 financial crisis—which risked the suspension of hearings and country visits and threatened cuts to the IACHR’s personnel by 40 percent, among other consequences¹⁹⁶—nevertheless, lack of funding remained an ongoing problem for the Commission, impacting its ability to fulfill its mandate.¹⁹⁷

Since then, the OAS has doubled the annual budget for the Inter-American Human Rights System, which includes the IACHR and the Inter-American Court of Human Rights, but the IACHR remains dependent on voluntary contributions to stay afloat.¹⁹⁸ The persistent reliance on voluntary contributions coupled with evident hostility from Member States, which has recently manifested itself via refusals to cooperate with

¹⁹² For example, some States threatened to significantly curb the Commission’s authority, and others withdrew from all aspects of the regional human rights system. See *Venezuela Denounces American Convention on Human Rights as IACHR Faces Reform*, INTERNATIONAL JUSTICE RESOURCE CENTER, Sept. 19, 2012, <https://ijrcenter.org/2012/09/19/venezuela-denounces-american-convention-on-human-rights-as-iachr-faces-reform/>; *OAS Concludes Formal Inter-American Human Rights ‘Strengthening’ Process, but Dialogue Continues on Contentious Reforms*, INTERNATIONAL JUSTICE RESOURCE CENTER, March 24, 2013, <https://ijrcenter.org/2013/03/24/oas-concludes-formal-inter-american-human-rights-strengthening-process-but-dialogue-continues-on-contentious-reforms/>.

¹⁹³ *Understanding the IACHR Reform Process*, INTERNATIONAL JUSTICE RESOURCE CENTER, Nov. 20, 2012, <https://ijrcenter.org/2012/11/20/iachr-reform-process/>.

¹⁹⁴ *Inter-American Commission’s Proposed Rule Changes Adopt Some OAS Recommendations*, INTERNATIONAL JUSTICE RESOURCE CENTER, Feb. 23, 2013, <https://ijrcenter.org/2013/02/23/inter-american-commissions-proposed-rule-changes-adopt-some-oas-recommendations/>.

¹⁹⁵ *Controversial Inter-American Reforms Process to Continue*, INTER PRESS SERVICE, March 23, 2013, <http://www.ipsnews.net/2013/03/controversial-inter-american-reforms-process-to-continue/>.

¹⁹⁶ *Inter-American Rights Body Suspends Hearings, Cuts Staff Amid Financial Crisis*, INTERNATIONAL JUSTICE RESOURCE CENTER, May 30, 2016, <https://ijrcenter.org/2016/05/30/inter-american-rights-body-suspends-hearings-cuts-staff-amid-financial-crisis/>; IACHR, Press Release, Severe Financial Crisis of the IACHR Leads to Suspension of Hearings and Imminent Layoff of Nearly Half its Staff, 23 May 2016, http://www.oas.org/en/iachr/media_center/PReleases/2016/069.asp.

¹⁹⁷ IACHR, Press Release, IACHR Overcomes its Severe Financial Crisis of 2016 and Thanks Countries and Donors who Made it Possible, 30 September 2016, http://www.oas.org/en/iachr/media_center/PReleases/2016/145.asp.

¹⁹⁸ IACHR, Press Release, IACHR completes 2 years of its Procedural Backlog Reduction Program and announces new actions approved following a second round of its participatory process of consultations, 5 December 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/257.asp.

IACHR mechanisms,¹⁹⁹ presents a continued challenge to maintain IACHR autonomy, specifically its ability to make and implement decisions based on its own analysis, and independence. Addressing this limitation is particularly necessary given the Commission’s perceived reluctance, at times, to tackle controversial topics. For example, some advocates believe the IACHR avoids dealing with complaints related to the “war on terror.”

Second, the Commission members’ interactions with State officials or its representatives during periods of sessions away from headquarters or during country visits may also undermine the Commission’s independence (actual or perceived). While Commissioners do not participate in decisions or deliberations concerning their own countries, in recent years, the IACHR has relaxed its practice when it comes to participating in social events— such as lunch, dinner, or receptions—organized by the host country.²⁰⁰ In the past, the IACHR’s practice was to exclude members who were nationals of the host country from any meetings or events organized by the host State.²⁰¹ While social events are arguably harmless, they may nevertheless result in an inadvertent exchange of substantive views or information.²⁰² Some participants in this study specifically noted that States parties may use hearings and periods of sessions to advocate or influence the Commission’s priority areas, including in deciding whether to focus on the monitoring aspect of its mandate or its petition system.²⁰³ Relatedly, participants explained that State officials may use interactions and photos with the Commission to advance their own agenda. For example, photos with Commissioners and certain government officials may be used by the State as an example of the IACHR supporting a party’s platform or a State official’s stance.

Finally, the level of transparency in the choice of Commissioners offers minimal safeguards to ensure that Commissioners are actually independent individuals without State ties. For example, following the “strengthening process” that took place between 2012 and 2013, a forum was organized as a way to introduce the candidates to the public and provide an opportunity for civil society and the public to ask questions and raise concerns.²⁰⁴ However, the forum or a similar process has not been codified in either the IACHR’s Rules of Procedure or the American Convention, making it a positive but isolated initiative dependent on the will of Member States and candidates.²⁰⁵ Without a formal process in place to ensure

¹⁹⁹ See, e.g., *Guatemala & Nicaragua: Cooperation with Human Rights Monitors Deteriorates*, INTERNATIONAL JUSTICE RESOURCE CENTER, Jan. 16, 2019, <https://ijrcenter.org/2019/01/16/guatemala-nicaragua-cooperation-with-human-rights-monitors-deteriorates/>; *IACHR Holds Hearings on U.S. Executive Orders, U.S. Fails to Appear*, INTERNATIONAL JUSTICE RESOURCE CENTER, March 23, 2017, <https://ijrcenter.org/2017/03/23/iachr-holds-hearing-on-u-s-executive-orders-u-s-fails-to-appear/>; see also *U.S. Failure at the IACHR Sets a Dangerous Precedent in the Region*, GLOBAL AMERICANS, Oct. 12, 2018, <https://theglobalamericans.org/2018/10/u-s-failure-at-the-iachr-sets-a-dangerous-precedent-in-the-region/>.

²⁰⁰ See Abi-Mershed, *supra* note 186.

²⁰¹ See *id.*

²⁰² See *id.*

²⁰³ See, e.g., *Comision Interamericana de Derechos Humanos, Estados Unidos TPS Y DACA*, YOUTUBE (March 7, 2018), <https://www.youtube.com/watch?v=spWOoQ7H8nk> (showing the United States relaying to the IACHR that it should focus on its petition system).

²⁰⁴ See *Foro de Candidatos para la CIDH*, FUNDACIÓN PARA EL DEBIDO PROCESO, Abril 25, 2013, <https://dplfblog.com/2013/04/25/foro-de-candidatos-para-la-cidh/>.

²⁰⁵ See *How to maintain the independence of a human rights body within an intergovernmental structure: the case of the Inter-American Commission on Human Rights in the Organization of American States*, CIVICUS,

transparency and accountability, States' attempts to nominate candidates with government ties to serve as Commissioners will continue to pose a threat to its independence and impede its ability to assert complete autonomy.

Openness Towards & Inclusion of Civil Society

The IACHR proactively aims to “expand[] and intensif[y] the role that civil society play[s] in all of its activities, including public hearings, consultations, training workshops, and bilateral and multilateral meetings.”²⁰⁶ Generally, civil society members that participated in this study opined that the Commissioners, IACHR staff, and the IACHR Executive Secretariat are open to and willing to communicate with civil society. Organizations that have been engaging with the IACHR for several years indicated that their relationship with the Commissioners and the Secretariat's staff has changed over the years as they have become more familiar with the Inter-American System and have been able to build stronger relationships with the Secretariat, the Commissioners, and their staff. They also noted that the Commissioners' availability via email has increased over the years, facilitating engagement.

However, participants explained that the location of sessions and other IACHR practices may limit civil society's access to the Commission and the Secretariat, even if unintentionally. For example, some participants in this study commented that it is challenging to meet with the IACHR Executive Secretariat's staff and to open a line of communication when sessions are held outside of headquarters.²⁰⁷ Participants explained that the informal opportunities that exist to engage in advocacy, to network, and to build relationships are more limited given that not all of the IACHR staff is able to travel. Similarly, civil society members noted that advocates participating remotely or digitally miss out on opportunities that only arise when one is physically present and able to attend side events and take advantage of informal networking opportunities.

According to participants in this study, informal opportunities to engage in advocacy, network, build relationships, and learn more about the IACHR and its processes are important because it is often difficult for civil society members to speak with Commissioners and the Secretariat's staff absent a scheduled working or bi-lateral meeting. Advocates often rely on informal meeting spaces, such as a lobby or side event, to interact with Commissioners and IACHR staff given that the IACHR grants very few working and bi-lateral meetings, and the Commissioners and the IACHR staff have a packed agenda during sessions—a possible consequence of the IACHR's time and resource constraints.

Relatedly, some participants flagged that while there are opportunities to engage in dialogue with the Commissioners and their staff, their conversations are not always fruitful. Participants explained that the suggestions that they present during those conversations or action items that arise out of those

<https://www.civicus.org/index.php/socs-2014-expert-perspectives/572-how-to-maintain-the-independence-human-rights-body-within-intergovernmental-structure>.

²⁰⁶ IACHR, Press Release, IACHR Reports Unprecedented Outcomes of Its Work in 2018 and Presents Progress Report for the Second Year of the Strategic Plan, 15 February 2019, http://www.oas.org/en/iachr/media_center/PReleases/2019/036.asp; see also IACHR, Press Release, IACHR Expands and Deepens Civil Society Participation in Efforts to Fulfil its Mandate, 9 February 2019, http://www.oas.org/en/iachr/media_center/PReleases/2019/031.asp.

²⁰⁷ See *supra* Location of Sessions, in *Informal Barriers to Civil Society Attendance at IACHR Sessions*.

conversations are difficult to monitor because there is no follow-up mechanism in place to ensure that actions are taken to further their discussions or to see how and if their suggestions are implemented.

Finally, and as previously mentioned, some participants indicated that some Commissioners and members of the IACHR Executive Secretariat and its staff have developed a close relationship with some organizations—often as a result of civil society organizations’ geographical proximity to headquarters or their access to sufficient resources to regularly attend sessions—that other organizations are unable to replicate. This has a direct impact on civil society’s relationship with and access to Commissioners and IACHR staff. For instance, participants noted that certain organizations, because they have been participating before the IACHR for many years, receive a higher recognition or are better positioned to communicate with staff and commissioners. All participants highlighted the importance of having personal contacts or allies, both on the Commission and in organizations that frequently engage with the IACHR, in order to receive a response to their inquiries and to be able to push their advocacy forward before the IACHR. Some civil society members explicitly noted that they have not been successful in receiving a response to updates, reports, and other communications sent to the Commission on various occasions. For example, a member of an organization that has not been able to attend a period of sessions as a result of a State’s *desacato* laws and that does not have internal connections at the IACHR noted that the organization has sent updates, reports, and other communications on various occasions to the IACHR; however, they have yet to receive a response. The same participant suggested that, in their view, other civil society organizations that have personal contacts within the IACHR or the Executive Secretariat are more likely to receive a response.

The importance placed on personal relationships, even if it is merely perceived, perpetuates the exclusion of less well-known organizations and of organizations that are newer, community-based, or that do not have the capacity to frequently attend periods of sessions and form the necessary relationships.

Other Civil Society Members at IACHR Sessions

GONGOS

Government NGOs (GONGOs) are organizations that participate in the NGO space but that are funded by, or have the backing of, governments. While these organizations are known to occupy civil society space and engage with the Commission, none of the participants in this study indicated that they have faced barriers due to GONGOs during sessions. However, civil society members flagged that in places like Guatemala, for example, organizations with ties to the State have been trying to infiltrate the human rights space. According to civil society members, to date, these organizations have not been successful in their engagement with the IACHR.

Alliances and Coalitions

Alliances and coalitions can help civil society members overcome some of the barriers to engaging with the IACHR.²⁰⁸ Such groups may organize by country, region or sub-region, or thematic issue area. By

²⁰⁸ For example, a number of U.S.-based human rights lawyers are part of an Inter-American Human Rights System Working Group, that is part of a larger network of lawyers working to foster human rights accountability in the U.S. The Working Groups aims to “facilitate[e] communication among U.S. lawyers, advocates, the Inter-American Commission on Human Rights (IACHR) staff, and the U.S. government.” See Human Rights Institute, Inter-American Human Rights System Working Group, <https://www.law.columbia.edu/human-rights-institute/bhrh-lawyers->

working in partnership, civil society members can use their limited resources more efficiently and effectively, including by sharing the workload related to advocacy before the IACHR, amplifying each other's voices, reducing the total resources required for participation by selecting representatives to attend on behalf of the group, and identifying shared practical concerns to raise with the Executive Secretariat. For example, the majority of participants in this study indicated that they work in coordination with other organizations when putting together hearing requests, which are reviewed by coalition members or other partner organizations. This, they argue, ensures that the version of the request that reaches the IACHR is as strong and as persuasive as possible.

Moreover, some civil society organizations with extensive experience before the Inter-American System, a history of participating in hearings, and managerial capacity often coordinate and facilitate collaborative advocacy based on thematic issues. Participants in this study confirmed that the leadership of certain organizations in this respect furthers engagement and is vital for coordinated and productive advocacy before the IACHR.²⁰⁹ Additionally, participants noted that working collaboratively may make the IACHR more likely to grant a hearing request, both because it has the support of multiple organizations and because the IACHR may know—based on prior experience or familiarity with its work—that one or more of the participating organizations will effectively leverage the hearing to advance broader advocacy goals. In this way, coalitions and alliances, including individualized assistance from partner organizations, may help increase access for newcomers or lesser-known organizations.

During IACHR periods of sessions, civil society organizations often schedule meetings that involve coalitions and partners, as well as IACHR members or Executive Secretariat staff. In these meetings, participants share information and discuss strategic and procedural factors that impact human rights accountability. These meetings are not public, in part because participants may have, or want to raise, concerns related to security or reprisals and because they provide a space for civil society to share information that may be confidential or sensitive. Organizations that are not already part of a relevant coalition, or that are not particularly active members, may find it difficult to obtain information on how to join or participate; participants in this study recommended identifying more effective ways of disseminating this information and increasing the transparency of non-sensitive information that would facilitate organizations' participation in existing coalitions.

States at IACHR Sessions

State support of and participation in IACHR sessions is essential for the Commission to effectively carry out its mandate. The financial support of inviting States allows the IACHR to hold sessions away from

[network/inter-american-working-group](http://www.world-psi.org/es/coalicion-internacional-de-organizaciones-por-los-derechos-humanos-piden-un-aumento-los-presupuestos). In Latin America, the *Coalición de Organizaciones por los Derechos Humanos en las Américas* also works to coordinate and promote advocacy efforts before the Commission. See, e.g., *Coalición Internacional de Organizaciones por los Derechos Humanos piden un aumento a los presupuestos de la Comisión Interamericana y la Corte Interamericana de Derechos Humanos*, PUBLIC SERVICES INTERNATIONAL, June 17, 2017, <http://www.world-psi.org/es/coalicion-internacional-de-organizaciones-por-los-derechos-humanos-piden-un-aumento-los-presupuestos>.

²⁰⁹ Note, for example, the IACHR's recognition of its meetings between the IACHR board of directors and "the coalition of NGOs working at the Inter-American System of Human Rights." See IACHR, Press Release, IACHR Reports Unprecedented Outcomes of Its Work in 2018 and Presents Progress Report for the Second Year of the Strategic Plan, 15 February 2019, http://www.oas.org/en/iachr/media_center/PReleases/2019/036.asp.

headquarters and results in more sessions per year. Additionally, the physical attendance of State representatives at IACHR sessions enables civil society, victims, and advocates to engage in discussions with State representatives that would otherwise not be possible, and may also allow State representatives to “promote a greater sense of ownership and investment” with respect to positive measures and outcomes their respective State has taken.²¹⁰

While many States engage in constructive participation before the IACHR, some States advocate within their perceived interests often to the detriment of certain civil society advocates and certain issue areas. For example, participants in this study explained that States may refuse to address the issues that are the topic of a hearing, refuse to answer the Commissioners’ questions during a hearing, and deviate from the topics being discussed. In particular, participants noted that States’ failure to attend a hearing is a significant barrier to engagement with the Commission because it limits civil society’s ability to engage in substantive dialogues with State representatives during a hearing, limits its ability to confront and pressure the State at an international stage, and impacts the Commission’s ability to gather the most pertinent facts at issue. Given that State action is required to address human rights violations, lack of effective State participation in IACHR activities may influence civil society’s strategic decision to engage with IACHR mechanisms as part of its advocacy efforts or to address wrongdoings.

Informal Barriers to Civil Society Engagement with the IACHR Outside of Sessions

Outside of periods of sessions, there are certain practices that the IACHR engages in that present similar barriers to civil society engagement with the Commission as those faced during the sessions. The primary barriers that civil society members face outside of sessions are related to the amount of notice given and the length of time of procedures, the lack of transparency and lack of access to pertinent information, and issues related to lack of transparency.

Timing & Notice

Petition System

The Commission’s individual petition system is experiencing a significant procedural backlog due to, in part, resource constraints, including lack of adequate staff support, and an increase in the number of petitions that it receives.²¹¹ A study from 2015 found that it takes the IACHR an average of six-and-a-half years to issue a merits decision from the date of initial submission, and more than four years for a decision

²¹⁰ Abi-Mershed, *supra* note 185.

²¹¹ See IACHR, *Annual Report 2017: Petitions, Cases and Precautionary Measures*, Ch. 2, para. 2 (2017), available at <http://www.oas.org/en/iachr/docs/annual/2017/docs/IA2017cap.2-en.pdf>.

on admissibility.²¹² While the number of petitions pending initial review was significantly down as of 2017, the backlog continues to be a significant challenge for the IACHR.²¹³

As mentioned above, the Executive Secretariat is tasked with processing petitions addressed to the Commission, and the Executive Secretary is tasked with planning and coordinating the work of the Secretariat.²¹⁴ The Secretariat, through the Executive Secretary, has broad discretion over the prioritization and processing of petitions.²¹⁵ While the Secretariat has undergone a significant restructuring aimed at expediting the processing of petitions and cases,²¹⁶ civil society has expressed concerns over the Secretariat's allocation of resources to areas other than the case and petition system. Specifically, civil society has observed that resources, both with respect to time and staff, are spent in a manner that favors the other activities of the Commission, such as its promotional activities.²¹⁷

The Commission has taken positive steps to reduce the backlog, including creating plans of action outlined in the Strategic Plan 2017-2021.²¹⁸ However, the plan places little emphasis on structural, logistical, and procedural problems that contribute to the efficiency of the petition system. Further, the Commission has taken positive steps to ensure that victims and petitioners are aware of the status and timeline associated with their petitions. Specifically, via the Commission's Individual Petition System Portal,²¹⁹ victims and petitioners can access information and receive notifications about their petitions and update their contact details, should the Commission need to contact them.

Country Visits

The Commission conducts promotional visits and visits *in loco*—a visit with at least two Commissioners—as part of its promotional and protective mandate.²²⁰ The purpose of visits *in loco* is to analyze a general or specific situation in a State, while promotional visits aim to communicate information regarding the work of the Inter-American System.²²¹ In addition to these visits, the Commission may also conduct country visits within the framework of requests for precautionary measures pending before it,²²² and

²¹² Human Rights Clinic, Univ. of Tex. Sch. of Law, Maximizing Justice, Minimizing Delay: Streamlining Procedures of the Inter-American Commission on Human Rights (2015), 4, available at <https://law.utexas.edu/wp-content/uploads/sites/11/2015/04/2012-HRC-IACHR-Maximizing-Justice-Report.pdf>.

²¹³ See, e.g., IACHR, *Annual Report 2017: Petitions, Cases and Precautionary Measures*, supra note 211; see also IACHR, Statistics by Year, <http://www.oas.org/en/iachr/multimedia/statistics/statistics.html>.

²¹⁴ See IACHR, Rules of Procedure, arts. 12(1), 13.

²¹⁵ See David Harris, *Regional Protection of Human Rights; The Inter-American Achievement*, in THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS 19 (David Harris and Stephen Livingstone eds., Oxford, 1998); see also Maximizing Justice, Minimizing Delay: Streamlining Procedures of the Inter-American Commission on Human Rights (2015), supra note 212.

²¹⁶ IACHR, *First Partial Report on the IACHR Strategic Plan 2017-2021* (2018), available at https://www.oas.org/en/iachr/mandate/StrategicPlan2017/docs/First_partial_report_SP.pdf.

²¹⁷ Civil society organizations also expressed concerns over the departure of Elizabeth Abi-Mershed as the Assistant Executive Secretary in May 2018 given that she was responsible for the case and petition system.

²¹⁸ IACHR, Strategic Plan, <http://www.oas.org/en/iachr/mandate/StrategicPlan2017/default.asp>.

²¹⁹ IACHR, Individual Petition System Portal, <http://www.oas.org/en/iachr/portal/>.

²²⁰ See IACHR, Mandate and Functions of the Commission, <http://www.oas.org/en/iachr/mandate/functions.asp>; IACHR, Country Visits, <http://www.oas.org/en/iachr/activities/countries.asp>.

²²¹ IACHR, Mandate and Functions of the Commission, <http://www.oas.org/en/iachr/mandate/functions.asp>.

²²² See, e.g., IACHR, Press Release, IACHR To Visit Milagro Sala in Jujuy, Argentina, 27 May 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/071.asp.

working visits to engage in activities related to a petitions, cases, or friendly settlements before it.²²³ After a country visit, the Commission generally publishes a report outlining its findings and presents it to the Permanent Council²²⁴ and to the General Assembly of the OAS.²²⁵

There are no explicit rules governing when the Commission should give notice to civil society about a planned country visit, or guidelines on how civil society can make a submission to request a meeting with the Commission or to provide information to the Commission. However, it is the Commission's practice to meet with civil society during both promotional visits and visits *in loco*, and to accept information and evidence from individuals.²²⁶ The Commission notifies civil society of the visits and dates of the visit through a press release that is published on its website and emailed via the IACHR's listserv. Often, the press release announcing a country visit is published only a week to a few days before the visit, with a few exceptions.²²⁷ An example of a positive development in this regard was the Commission's announcement of its schedule for 2018 that included the dates and location of the visits *in loco* that it would conduct in 2018.²²⁸

The IACHR Special Rapporteurs²²⁹ also conduct country visits and issue notices on a country visit and guidelines on civil society submissions regarding the country visit.²³⁰ For instance, the Special Rapporteur for Freedom of Expression tends to give notice on a country visit about a month in advance of the visit.²³¹ The Special Rapporteur's announcements also include directions for civil society to submit information

²²³ See, e.g., IACHR, Press Release, IACHR Carries Out Working Visit to Mexico, 11 September 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/138.asp; IACHR, Press Release, IACHR Carries Out Working Visit to Paraguay, 13 July 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/099.asp.

²²⁴ The Permanent Council serves as the "Organ of Consultation" and is charged with carrying out the OAS General Assembly's decisions, and ensuring friendly relationships among Member States. See OAS, About the Permanent Council, <http://www.oas.org/en/council/about.asp>.

²²⁵ The General Assembly is the principal decision-making body of the OAS. See OAS, General Assembly, http://www.oas.org/en/about/general_assembly.asp.

²²⁶ IACHR, Press Release, CIDH amplía y profundiza la participación de la sociedad civil en el cumplimiento de su mandato, 9 February 2019, <http://www.oas.org/es/cidh/prensa/comunicados/2019/031.asp> (Spanish only) (noting that the IACHR held various meetings with civil society during its visits *in loco* to Honduras and Brazil in 2018).

²²⁷ See, e.g., IACHR, Press Release, IACHR Announces Dates and Scope of Upcoming Visit to Nicaragua, 17 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/111.asp (announcing a visit to Nicaragua to commence the day of the issuance of the press release); *but see* IACHR, Press Release, IACHR Will Visit Nicaragua, 14 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/108.asp (announcing that a visit will take place without specifying the date or scope of the visit); *see also* IACHR, Press Release, IACHR To Conduct On-site Visit to Guatemala, 21 July 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/103.asp (announcing a visit to Guatemala to commence nine days after the issuance of the press release).

²²⁸ IACHR, Press Release, IACHR Announces its Schedule for 2018, 30 January 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/012.asp.

²²⁹ These individuals work under the IACHR mandate but are not members of the IACHR. They are full time officials selected by the IACHR for the position.

²³⁰ See, e.g., IACHR, Announcement, Call for inputs Visit to Ecuador, 19 July 2018, <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1112&IID=1> (announcing a visit to Ecuador to commence one month after the issuance of the press release).

²³¹ See *id.*; *see also* IACHR, Announcement, Call for inputs Joint Visit to Mexico, 19 October 2017, <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1079&IID=1> (announcing a visit to Mexico to commence about one month after the issuance of the press release).

prior to the visit that would be relevant for the Special Rapporteur's consideration.²³² The announcement lists examples of information that the Special Rapporteur would like from civil society and gives instructions on page length, the language that it must be submitted in, the deadline for submission, and the email address that it must be submitted to.²³³ Generally, the deadline for submissions has been two weeks after the announcement is released.²³⁴ The Special Rapporteur on ESCER has yet to conduct a country visit.

Transparency & Access to Information

Follow-up Mechanisms

Participants in this study expressed the need for follow-up mechanism with respect to recommendations that the Commission makes during hearings and recommendations that it makes in thematic and country reports. The Commission does not have specific guidelines or make public information on how civil society can engage with the Commission to follow-up on recommendations in both of these areas. Nevertheless, civil society regularly engages with the Commission through informal mechanisms as way of follow-up.²³⁵ For example, civil society regularly engages with the Commission—either in person or via electronic communications—after a hearing concludes to provide additional information on the issue(s) addressed in the hearing, to update the IACHR on any developments that have taken place since the hearing, or to encourage the Commission to take additional steps in monitoring the situation or pressuring the relevant State actor to take action.

Participants in this study expressed that the IACHR could facilitate civil society's follow-up measures on hearings if the IACHR published detailed summaries of the hearings, including recommendations and statements, and civil society's submissions and States' statements made during a hearing. Additionally, some civil society members mentioned that written transcripts of hearings would be beneficial to civil society members seeking to engage with the IACHR in follow-up. Transcripts would be helpful because they would contribute to a written record of the proceedings that could then be translated into several languages, making hearings more accessible to media outlets, persons with cognitive disabilities, and other stakeholders.

While participants welcomed the benefits of having access to videos of hearings on YouTube and the Commission's practice of publishing summaries of the hearings, working meetings, or bi-lateral meetings that take place during a period of sessions,²³⁶ they noted that the level of detail and information included

²³² See Call for inputs Visit to Ecuador, *supra* note 230; Call for inputs Joint Visit to Mexico, *supra* note 231.

²³³ See Call for inputs Visit to Ecuador, *supra* note 230 (instructing civil society to send information in English or Spanish and to not exceed ten pages, and listing the deadline and email address to which it must be sent); Call for inputs Joint Visit to Mexico, *supra* note 231 (instructing civil society to send information in English or Spanish and to not exceed ten pages, and listing the deadline and email address to which it must be sent).

²³⁴ See Call for inputs Visit to Ecuador, *supra* note 230; Call for inputs Joint Visit to Mexico, *supra* note 231.

²³⁵ See IACHR, Press Release, CIDH amplía y profundiza la participación de la sociedad civil en el cumplimiento de su mandato, 9 February 2019, <http://www.oas.org/es/cidh/prensa/comunicados/2019/031.asp> (Spanish only) (noting examples of civil society engagement with the IACHR regarding follow-up mechanisms).

²³⁶ See, e.g., IACHR, Press Release, Annex: Public Hearings of the 168 Period of Sessions, 11 May 2018, http://www.oas.org/en/iachr/media_center/PReleases/2018/104A.asp; IACHR, Press Release, Report on the 164th Ordinary Period of Sessions of the IACHR, 12 October 2017, http://www.oas.org/en/iachr/media_center/PReleases/2017/157.asp.

in each summary is often too general and inconsistent. For example, participants mentioned that summaries don't always include the questions posed or concerns raised by the Commissioners during a hearing, and that summaries often fail to include a detailed description of the IACHR findings and recommendations.

The lack of complete information in these summaries hinders civil society's ability to engage with the IACHR in follow-up activities or to pressure States to abide by the recommendations that were made during a hearing. Without additional processes in place to publish written documentation of outcomes from hearings or meetings that take place during a session, and without making civil society and State submissions presented during a hearing publicly accessible, civil society members have little access to written outcomes that would facilitate follow-up activities before the IACHR.

Civil society members seeking to engage in follow-up mechanisms before the IACHR also lack access to information regarding *how* to follow up and *who* to follow up with. As previously mentioned, the IACHR does not publish information or guidelines on how civil society can engage in follow-up measures after a hearing. Therefore, civil society seeking to engage in follow-up measures must rely on formal or informal channels of communication to find complete and relevant information. Given that requests for information that are sent to the Commission's institutional email address often go unanswered, civil society members frequently rely on informal channels of communication to find the information that they need to engage effectively. For example, civil society members rely on personal contacts with IACHR personnel with whom they have a personal relationship with to find out information on how to engage in follow-up measures. Similar to other areas of engagement, participants that are repeat actors before the IACHR are often the most knowledgeable about *how* to follow up and *who* to follow up with.

With respect to reports, participants noted that the lack of structure regarding mechanisms to receive follow-up information on the implementation of the recommendations made in these reports impacts their ability to effectively and efficiently advocate for greater implementation.

CIVIL SOCIETY MEETINGS AND COORDINATION

Explanation of Civil Society Meetings Prior to and During IACHR Sessions

Unlike in other systems, there is no civil society-organized forum or general meeting convened in connection with IACHR sessions. Civil society members do organize and participate in meetings related to their advocacy, including before the IACHR, but these meetings are private, open only to coalition members, or organized to address specific issues or initiatives. Separately, civil society organizations often organize or host events and panels on the margins of IACHR sessions, and these are often open to the public or to civil society generally.

Independent of these meetings, civil society organizations organize and host events during IACHR sessions—not part of the official IACHR session agenda—and invite Commissioners and/or IACHR staff to

participate. These events focus on specific topics or issues that civil society seeks to advance before the IACHR. Often, the events are open to the public and provide an opportunity for dialogue between IACHR staff and civil society members. However, the structure of side events, the issues discussed, and who is in attendance depends on the organization or individual(s) organizing the event.

With respect to private or preparatory meetings during sessions, participants in this study mentioned that there are limited spaces available to prepare and collaborate with other advocates. Participants voiced that having a room reserved for civil society in the same venue where a period of sessions is being held or having access to meeting spaces near the venue would help increase civil society's ability to meet and coordinate advocacy efforts. Limited access to reserved meeting spaces, coupled with the fact that the IACHR does not announce the venue of the session in a timely manner, limits civil society's ability to plan and organize meetings in advance. Reserved meeting spaces may be particularly important for civil society members that are not familiar with the city or country where the session is being held. Further, some participants suggested that access to virtual meeting space with technical support would foster dialogue among advocates and facilitate coordination and collaboration among civil society that is unable to be physically present at a session.

INTER-AMERICAN HUMAN RIGHTS SYSTEM FORUM

The Inter-American Human Rights System Forum (IAHRS Forum)²³⁷ is an event organized by the IACHR and the Inter-American Court of Human Rights to encourage and facilitate a debate about the status of human rights in the region, the effectiveness of the Inter-American System, and States' compliance with the Court's and the Commission's decisions and recommendations.²³⁸ The first IAHRS Forum was held in December 2017 at the IACHR headquarters in Washington, D.C.²³⁹ The forum took place over a two-day period that included panels, workshops, roundtables, and expert consultations.²⁴⁰ Most of these were open to the public, however some expert consultations were by "invitation only."²⁴¹ It is unclear from the information available how civil society could have obtained an invitation to attend. In addition to the

²³⁷ IACHR *et al.*, Foro del Sistema-Interamericano de Derechos Humanos, <https://cidhoea.wixsite.com/foro-sidh> (Spanish only).

²³⁸ See IACHR, Press Release, IACHR and Inter-American Court Extend Invitation to First Forum of the Inter-American Human Rights System and Call for Proposals for Side Events, 3 November 2017, http://www.oas.org/en/iachr/media_center/preleases/2017/172.asp; IACHR *et al.*, Preliminary Agenda, <http://www.oas.org/en/iachr/docs/pdf/2017/Agenda-ForoInteramericano2017-en.pdf>.

²³⁹ IACHR, Press Release, IACHR and Inter-American Court Extend Invitation to First Forum of the Inter-American Human Rights System and Call for Proposals for Side Events, 3 November 2017, http://www.oas.org/en/iachr/media_center/preleases/2017/172.asp.

²⁴⁰ See *id.*

²⁴¹ IACHR *et al.*, Preliminary Agenda, <http://www.oas.org/en/iachr/docs/pdf/2017/Agenda-ForoInteramericano2017-en.pdf>.

panels, workshops, roundtables, and expert consultations, civil society organizations had the opportunity to propose and organize side events in the context of the IACHRS Forum.²⁴²

Civil society organizations wishing to propose a side event had to submit a proposal, including a conceptual description of the event and the names of the organizers, to the email addresses provided in the press release.²⁴³ The IACHR and the Court selected the events based on their subject matter, geography, and organizations that requested it, as well as the physical space available.²⁴⁴ Preference was given to proposals that were submitted by more than one organization.²⁴⁵ It is not clear from the information available how or when the organizations selected to host a side event were notified.

Participants who wished to attend the activities associated with the IAHR Forum had to register prior to the event. An online link was activated in order for participants to register about two weeks before the IAHR was to take place.²⁴⁶ Additional information regarding the registration requirement is not currently available.

All of the costs associated with hosting and organizing an event, and with participating in any of the IAHR Forum activities had to be covered by the participating individuals or organizations.²⁴⁷

Participants in this study noted that while a lot of information was presented during the IAHR Forum, the manner in which the Forum was conducted was not conducive to a constructive dialogue on the issues facing the Court and the Commission, or to providing concrete recommendations on how to address some of the most pressing issues facing the Inter-American System. Nevertheless, participants welcomed the opportunity that the IAHR Forum presented for civil society members to engage with each other, the Commission, and the Court.

MOVING TOWARD BEST PRACTICES

This study is intended to highlight barriers to effective engagement with the goal of facilitating civil society's efforts to develop recommendations aimed at increasing engagement before the Commission. The information in this report should be read in conjunction with the findings in the report on the African Commission on Human and Peoples' Rights and the forthcoming report on the United Nations Human Rights Council. Below are two non-exhaustive lists of the practices that appear to facilitate engagement with the Commission and the practices that appear to obstruct that engagement. Both lists take from the concrete practices that IJRC was made aware of while conducting research for this study. Finally, based on these lists and the suggestions of advocates IJRC interviewed in the course of this study, a non-

²⁴² IACHR and Inter-American Court Extend Invitation to First Forum of the Inter-American Human Rights System and Call for Proposals for Side Events, *supra* note 238.

²⁴³ *See id.*

²⁴⁴ *See id.*

²⁴⁵ *See id.*

²⁴⁶ *See id.* The link is not currently activated and IJRC did not participate during the 2017 IAHR Forum, therefore IJRC does not have additional information about what the specific registration requirements are.

²⁴⁷ *See id.*

exhaustive list of recommendations is included below as a starting place for civil society's expansion or revision of recommendations made to the Commission or other civil society groups in order to increase engagement and access to the Commission.

Positive Practices that Facilitate Engagement

Various stakeholders engage in practices that encourage and facilitate civil society's ability to participate in its various processes. Based on the findings of this report, we have identified the following practices facilitating civil society's ability to engage with the IACHR, by States, the Commission itself, and civil society:

States

- Host, and pay for, IACHR periods of sessions in their own countries;
- Make voluntary financial contributions to the IACHR;
- Defend the IACHR when it is under attack; and,
- Nominate well-qualified candidates to serve on the IACHR.

Inter-American Commission on Human Rights

- Allows any NGO, individual, advocate, or member of the press to attend IACHR without requiring prior registration;
- Announces its schedule of hearings for the year in January, even if only tentative;
- Allows any NGO or individual to submit a hearing request;
- Provides generic NGO invitation letter for visa purposes;
- Provides interpretation in English and Spanish for hearings that take place during IACHR sessions;
- Holds hearings that are public in nature (unless there are retaliation, confidentiality, or safety concerns);
- Takes steps to address reprisals against human rights defenders who engage with the Commission through the Office of the Special Rapporteur on Freedom of Expression;
- Live streams all hearings on the IACHR YouTube channel and make the recordings available after the hearing (unless there are retaliation, confidentiality, or safety concerns);
- Uses social media accounts to increase transparency and make information more accessible;
- Increase the number of sessions held per year to cover a broad range of issues;
- Accepts invitations to participate in events or meetings with civil society;
- Takes steps to reduce the petition backlog;
- Created an Individual Petition System Portal that allows victims and petitioners to access information about the status of their petitions;
- Created a Unit on the Rights of Persons with Disabilities;
- Works with civil society through participation in informal side events and hold consultations with civil society; and,
- Provides versions of the IACHR website in at least two official languages: Spanish and English.

Civil Society

- Supports the advocacy of partner organizations through alliances or coalitions, and generally support coordination, collaboration, and networking through structured meetings;
- Facilitates side events with advocates, Commissioners, or the IACHR Secretariat staff; and,
- Holds focused panels, side events, or meetings that have concrete goals and outcomes.

Practices that Obstruct Engagement

Various stakeholders engage in practices that obstruct civil society's ability to participate in its various processes. Based on the findings of this report, we have identified the following practices or factors obstructing civil society's ability to engage with the IACHR, by States, the Commission itself, and civil society:

States

- Through the OAS and individually, allocate insufficient funding to the IACHR;
- Place limitations on the activities the IACHR can carry out using earmarked funds;
- Engage in campaigns to delegitimize the IACHR;
- Carry out, or allow, attacks and reprisals against human rights defenders;
- Impose arbitrary restrictions on visas for civil society members participating in IACHR activities;
- Fail to show up for hearings, or send representatives without the requisite knowledge or authority to address the issues raised; and,
- Fail to respond, or respond belatedly, to the IACHR's requests for petition-related briefs or replies, information on a particular situation, country visits, or other involvement.

Inter-American Commission on Human Rights

- Lack of advanced publication of the dates, location, and venue of sessions until about a month before the session;
- Takes pictures of advocates without obtaining consent, as could be indicated by registration form and/or color of lanyard;
- Lack of clear guidelines or methods for requesting virtual participation in hearings;
- Limited efforts to identify and proactively ask attendees about their required accommodations;
- Publishes the schedule of hearings less than a month leading up to the session and not earlier;
- Limits State participation in hearings to one government, even when hearing requests are consolidated to cover an issue that spans over more than one State;
- Neglects to publish session information in all of the four official languages or making certain information only available in one language, typically Spanish;
- Does not provide materials in audio and braille formats;
- Lack of advanced public notice of country visits prior to a week in advance of the visit, in order to provide civil society sufficient time to prepare and coordinate; and,
- Allows States to limit the scope of a hearing by failing to effectively participate and engage in the substantive issues being presented.

Civil Society

- Takes and disseminates pictures of civil society participants in sessions without obtaining consent, as could be indicated by registration form and/or color of lanyard;
- In some instances, particularly involving organizations supported by a State government (GONGOs), intentionally disrupts meetings or events at the IACHR; and,
- In some instances, inadequately disseminates information to all coalition members in a timely manner with regard to opportunities to engage with the IACHR.

Recommendations

States

Based on the finding of this report, States could improve civil society's ability to engage with the Commission by:

- Abstaining from activities that may constitute reprisals;
- Respecting the rights of human rights defenders;
- Paying assessed contributions in a timely manner;
- Committing to additional voluntary financial contributions;
- Removing conditions attached to funding for the IACHR;
- Attending and participating constructively during periods of sessions;
- Responding meaningfully to information requests;
- Reducing visa costs or other travel requirements for human rights defenders;
- Complying with IACHR recommendations in a timely and effective manner;
- Providing information and analysis that is responsive and relevant to the topic of hearings;
- Sending government officials with direct responsibility for the subject matter to participate in hearings; and,
- When hosting IACHR sessions or other activities, dedicating adequate human and financial resources to ensure that the necessary arrangements can be made in a timely manner and in a way that prioritizes civil society access and reduces the logistical and financial burden on the IACHR as much as possible.

Inter-American Commission on Human Rights

Based on the finding of this report, the Inter-American Commission could improve civil society's ability to engage with the Commission by:

Protecting Stakeholders

- Taking steps to address in a timely and efficient manner reprisals against human rights defenders who engage with the Commission;
- Implementing a security protocol to address human rights defenders' privacy concerns related to session and event attendance;
- Establishing clear procedures for instances when other actors interrupt or interfere with hearings, meetings, dialogues, or other events organized by the Commission;

- Taking and using participants' photographs only when consent is expressly given, as could be demonstrated through a registration form or a designated color on participants' lanyards;
- Making the IACHR website secure, and providing an encrypted, confidential method for communication with the IACHR Executive Secretariat, such as via Signal;

Improving Transparency and Access to Information

- Adding organizational information to the IACHR website, including on the structure of the IACHR Executive Secretariat and the methods for communicating with the IACHR Executive Secretariat;
- Clarifying and making transparent the means for communicating with IACHR Commissioners and IACHR Special Rapporteurs;
- Providing advance online notice and an accessible sign-up procedure for the IACHR plenary meetings with civil society during sessions;
- Restoring the online availability of video recordings of IACHR hearings held prior to 2013;
- Making all website content, including press releases, announcements, reports, and documents, available in the official languages of the OAS;
- Establishing a process for notifying organizations or individuals whose hearing requests or meeting requests are not granted, and implementing it consistently;
- Providing a reason for why a hearing or meeting is denied or indicating whether a hearing request may be successful if submitted for a subsequent session;
- Establishing guidelines and clear methods for requesting virtual participation;
- Adopting and disseminating a protocol for when States fail to participate in hearings or other events where their participation is expected, particularly with regard to how civil society's time for participation will be allocated or rescheduled;
- Making available additional information about the IAHR Forum so that civil society can better understand its role and how its participation will contribute to it;
- Publishing summaries of the outcomes of hearings that include any recommendations or follow-up indicated by the Commissioners;
- Publishing on its website the written submissions made by civil society and States in the context of hearings;
- Maintaining IACHR social media accounts (in English and Spanish, at minimum) and sharing session information and other news through those mediums;
- Developing a portfolio of media contacts and sharing information with outlets and reporters regarding hearings, reports, visits, and other activities;

Enhancing Timeliness of Communications

- Consistently communicating the dates of upcoming periods of sessions, hearings, consultations, country visits, and other activities well in advance;
- Providing timely and accessible public notice of each session's location;
- Announcing *ex officio* hearings when the window for hearing requests opens;
- Publishing the schedule of hearings and notice of *ex officio* hearings further in advance of session dates;
- Communicating decisions to grant or deny hearing and meeting requests further in advance of the session dates;

Improving Equal Access

- Inquiring about needed accommodations for persons with disabilities attending a session and preparing those accommodations ahead of sessions;
- Offering materials in large print, audio, and braille format;
- Making available video recordings of hearings in the four official languages of the OAS;
- Publishing a transcript of hearings in each of the Commission's official languages;
- Making gender neutral restrooms available;
- Guiding Executive Secretariat staff in ensuring that they are equally responsive to communications from lesser known or newcomer organizations as they are to more familiar organizations; and,
- Opening a dialogue with new or infrequent users of the Inter-American System, or taking other specific efforts to increase communication with the organizations most affected by barriers to participation before the IACHR.

Civil Society

Based on the finding of this report, civil society could improve its own ability to engage with the Commission by:

- Sharing information with coalition members in a timely manner;
- Taking pictures of human rights defenders only after obtaining consent, as could be indicated by registration form and/or color of lanyard; and,
- Considering adopting open policies for attendance to coalition meetings, to the extent that it is safe and productive to do so.



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